I do allow of the Printing of this Book of the Clerk of Assize, and Clerk of the Peace.

February 21. 1675. FRA. NORTH.

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THE OFFICE of the CLERK OF ASSIZE:

CONTAINING

The *Form* and *Method* of the Proceedings at the Assizes, and general Gaol-delivery, as also on the Crown and *Nisi Prius* side.

Together with

The Office of the Clerk OF THE PEACE.

Shewing the true Manner and Form of the Proceedings at the Court of General Quarter-Sessions of the Peace.

With a Table of Fees thereunto belonging.

Very Useful and Necessary for all Persons concerned there.

London, Printed for *Henry Twyford* in *Vine Court*, *Middle Temple*, 1676.

BIBLIOTHECA·BODLEIANA·

To the Reader.

Is the Opinion of Sir *Edward Coke* in his fourth Inſtitutes, that the power and Juriſdiction of Juſtices of Peace is ſuch a Form of Subordinate government for the Tranquility and Quiet of the Realm, as no part of the Chriſtian World hath the like, if the ſame be duly executed; for

it is the Soveraign means that does produce peace and quiet, the common parents of true Felicity, which is the end whereto all Mens actions tend: and for the better dispensation of Justice to the People, Men of the greatest Birth, parts, Reputation and Estate in the Country have for the most part had the honour to be concerned in this affair; that their Birth may be a glory to their Seats, their parts an advantage to Justice, their Reputation a satisfaction to the people and their Estates a support against corruption but divers of these

Gentle-

Gentlemen having not been converſant in the practice of the ordinary Courts of Juſtice, often in the abſence of thoſe worthy perſons, who be aſſociated with them for their learning in the Law, meet with many difficulties, and Diſcouragements; wherefore ſome Gentlemen, who had procured a ſight of theſe Collections from the Authour, and conceiving that if they were expoſed to publick view they would be very uſeful, and advantagious to ſuch as were concerned in theſe Courts, did prevail with the Authour, who had deſigned them

them only for his own private use, to suffer them to pass the Press, for the general Good and Benefit of the Kingdom, that every Person concerned in their several Stations, may know the Rules of the Court, and the Forms of the Law; and that all Justices of Peace in their course of Justice, may be enabled the more Methodicaly to proceed according to the directions in their Commission, *Facturi quod ad Justitiam pertinet Secundum legem & consuetudinem* Angliæ.

The

The Summons of the Assizes.

Lincoln ss. OB. *Miles & Baronettus Capital. Justic. Domini Regis de Banco &* S. B. *Miles un. Justic. dicti Domini Regis de Banco, Justic. ipsius Domini Regis ad omnes Assizas Jurat. & Certification. coram quibuscunque Justic. tam per diversa brevia Dom.* Carol. *nuper Regis Angl. & per diversa alia brevia sub stilo, nomine, titulo seu teste quibuscunque, quam per diversa brevia dicti Domini Regis nunc in Com.* Lincoln, *Arraiat. capiend. assign. Vicecom. ejusdem Com. salutem, ex parte dicti Dom. Reg. nunc, Tibi Præcipimus quod non omitt. propter aliquam Libertatem in Balliva tua quin venire facias coram nobis apud Civitatem* Lincoln, *in Com. tuo die Veneris vicesimo die Septembris,*

bris, proxime futur. omnia brevia, Aſſizarum, Jurat & Certificationum coram quibuſcunque Juſtic. tam per diverſa brevia dicti nuper Regis & per diverſa alia brevia ſub ſtilo, nomine, titulo ſeu teſte quibuſcunque, quam per diverſa brevia dicti Domini Regis nunc in Com. tuo arraiat. capiend. una cum Pauel. Attachi. re-Attachi. ſum. reſum. & omnibus aliis Admini. Aſſizæ Jurat. & Certificationes ill. qualitercunque tangent. proviſo ſemper quod Attachi. re-Attachi. ſum. reſum. inde fiant per quindecim. dies ante præd. diem Veneris venire facias etiam coram nobis præfat. O. B. & S. B. Juſtic. ipſius Domini Regis ad Gaolam ſuam Com. ſui Lincoln *præd. de Priſon. mea exiſten. deliberand. aſſign. apud Civitatem* Lincoln, *præd. in Com. prædicti ad prædicti diem Veneris omnes Priſonar. in Gaola prædicti. exiſten. una cum eorum Attachi. Indicament & omnibus aliis Adminiculis Priſon. illos qualitercunque tangent. & de Vicinet. cujuſlibet Villæ & loci ubi Felonia unde iidem Priſon. Indictiat. appellat. ſive arrectiat. exiſtunt facta fuerint tam infra Libertatem quam extra viginti, quatuor probos & legales homines per quos rei veritas melius ſciri poterit & Inquiri & qui Priſon. illos nul'a affini-*

tate attingunt una cum quatuor homi-nibus & Præpoſitis Villæ & Loci eorum ad faciendum ea quæ ex parte dicti Domini Regis nunc, tunc & ibidem eis injungentur Publice etiam proclamari fac. per totam Ballivam tuam, quod omnes illi qui ſequi volunt verſus Priſon. illos tunc ſint ibi verſus eos pront Juſtum fuerit Proſecutur. Sciri fac. etiam Omnibus Juſtic. pacis Majoribus, Coronatoribus, Eſcaetoribus, Seneſchall. & Ball. Libertat. & Hundred. in Com. tuo, necnon omnibus & ſingulis Capitall. Conſtabulariis cujuſlibet Libertatis & Hundred. in Com. tuo, quod tunc ſint ibi in propriis perſonis ſuis cum Rotulis, Recordis, Indictament. & aliis memorand. ſuis ad faciendum ea quæ ad officia ſua pertinent in hac parte facienda, & quod tuipſe & ſubvicecom. tuus una cum Ballivis & aliis Miniſtr. tuis tunc ſitis ibi in propriis perſonis veſtris ad facienda ea quæ ad Officia veſtra pertinent in hac parte facienda & habeas ibi tunc nomina Juſtic. pacis Major. Coronatorum, Eſceator. Seneſchal. Ballivor. Capitalium Conſtabulariorum & eorum quos ſic venire feceris coram quibus & quos ſic ſcire feceris, & habeas ibi tunc hoc præcept. Dat. apud Weſtmonaſterium, *Viceſimo quarto die*

Junii

Junii, *Anno Regni, Domini Noſtri,* Caroli *Secundi, Dei Gratia,* Angliæ, Scotiæ, Franciæ, & Hiberniæ *Regis, Fidei Defenſoris,* &c. *Decimo nono.*

The Return of Summons of the Aſſizes.

VIrtute iſtius præcepti mihi directi. Venire feci coram Juſticiariis infra Script. ad diem & locum infra contentum omnia brevia Aſſizar. Jurator. & Certificationum in Com. L. *infra Script. (coram quibuſcunque Juſtic. tam per diverſa Brevia Domini Caroli nuper Regis Angliæ quam per diverſa brevia Domini Regis nunc) una cum Pannellis, Attachiamentis, re-Attachiamentis, Summon. re-Summon. & omnibus aliis adminiculis Aſſizar. Juratores & Certificationes illas qualitercunque tangent. Venire feci etiam coram præfat. Juſticiariis ad Gaolam dicti Domini Regis in Com.* Lincoln *præd. de Priſonibus in ea exiſtentibus deliberand. aſſignand.*

Dalton's office of Sheriff fo. 195, 196.

ad præfat. diem omnes Priſon. in Gaola præd. exiſten. una cum eorum Attachiamentis re-attachiamentis & omnibus aliis adminiculis Priſon. illos qualitercunque tangent & de vicineto cujuſlib. villæ & loci. ubi Felonia unde iidem Priſonar. indictati appel. ſive arreſtat. exiſtunt ſacti. fuerunt, tam infra Libertates quam extra vigint. quatuor probos & legales homines quibus rei veritas melius ſciri poterit & inquiri & qui Priſonar. illos nulla affinitate attingunt, una cum quatuor hominibus præpoſit. villæ & loci eorum ad faciendum ea que tunc ibidem eis ex parte Domini Regis tunc injungent. publice etiam proclamari feci per totam Ballivam meam quod omnes illi qui ſequi voluerint verſus Priſon. illos ſeu eorum aliquem, quod tum ſint ibi verſus eos prout juſtum fuerit proſecutur. ſcire feci etiam omnibus Juſtic. pacis, Majoribus, Coronatoribus, Seneſchall. Dominor. & Magnat. & Ballivis Libertatum & Hundred. Comitatus prædict. quod tunc ſint ibidem cum Rotulis, Record. Indictamentis & aliis memorand. ſuis ad faciendum ea quæ ad Officia ſua pertinent prout interius mihi præcipitur.

Reſiduum executionis iſtius præcepti patet

set in quibuſdam ſchedulis huic præcepto annexatis.

A. B. Ad. Vic.

Then follows the Pannels of the twenty four of every Hundred of the ſame County and ſhall be annexed to the Return of the ſaid Writ. *Cromp.* 206.

The Return of the Precept for the Gaol-Delivery.

EXecutio iſtius præcepti patet in diverſis panellis eidem præcept. conſut. & ulterius proclamari feci per totam Ballivam meam, quod omnes illi qui proſequi voluerint verſus aliquos vel aliquem de vlo infra contento pro Domino Rege aut pro ſeipſis quod tunc ſint ibidem cum billis ſuis in forma juris proſecutur. &c. *liber. intrat.* 443. *b.*

Alſo a Calendar of the names, of the Juſtices of Peace, Mayors, Coroners, Stewards and Bayliffs of Liberties and Hundreds, and Priſoners which are in the Gaol, or which are bailed by the Juſtices after they were committed, *&c.* ſhall alſo be delivered by the Sheriff to the Juſtices of Gaol-delivery. The form whereof ſee here.

Calendar.

Lincoln Dalton's Office of Sheriff's.

KAlendarium de nominibus Juſtic. pacis Domini Regis Major. Coronator. Seneſchal. Ballivor. Libertatum & Hundred. in Com. præd. ſummon. ad eſſend. ad Aſſizas tenendas apud Civit. Lincoln. *in Com. præd. die Lunæ in Secunda Septimana Quadrageſimæ Anno Regni Domini, Noſtri,* Caroli *Secundi, Dei Gratia,* &c. *Defenſoris,* &c. *Ac de nominibus Priſon. in Gaola prædict. exiſten.*

Nomina Juſtic. pacis

A. B. *Miles & Baronettus* C. D. *Miles*

Miles E. F. *Armiger*, &c.

Nomina Majoꝛ.

F. G. *&c.*

Nomina Coꝛonatoꝛ.

G. H. I. K. *&c.*

Nomina Seneſchall. & Ballivo-
rum Libertatum.

L. M. N. O. P. Q. *&c.*

Or here you may ſhew ſpecially who is Steward or Bayliff of every Liberty or Franchiſe, as followeth.

A. B. *Seneſchal. de Libertate de* E.

C. D. *Ballivus de Libertate de* F.

Et ſic de Cæteris.

Nomina Ballivoꝛ. Hundred.

R. S. T. V. A. B. D. C. *&c.*

Or

Or thus,

R. S. *Ballivus Hundred. de* R.

T. V. *Ballivus Hundred. de* C.

Et ſic de aliis Ballivis alior. Hundred.

Nomina Priſonar. in Gaola Lincoln, *exiſtent.*

I. S. *repriſ.*

I. N. *Capt. apud* S. *pro ſuſpeti. Felonia.*

Et ſic de reliquis &c.

Alſo they muſt ſhew by what Juſtices of Peace, the Priſoner was committed, and for what cauſe.

And they muſt here ſhew what Priſoners have been bailed (by the Juſtices of Peace) after they were committed, And by what Juſtices they were Bailed.

And

And the Warrants which the Sheriff muſt make by vertue of this Precept (for the ſummoning of the Aſſizes) to the Bailiffs of Liberties, and Bailiffs of Hundreds, muſt contain in them the whole ſubſtance of this precept, but whether it be in *Latin* or in *Engliſh*, it is not material, ſo that it be made in due form. And it is needful that the Sheriff keep for himſelf a particular note of the names of ſuch perſons, as he nominateth in his Warrant to be ſummoned, to ſerve in or upon the Grand Jury, and not to leave it to the diſcretion of Bailiffs, to put in and out whom they liſt in that ſervice.

The

The form of the Warrant made by the Sheriff or Under-Sheriff, for the ſummoning of the Aſſizes.

A. B. *Miles Vicecom. Com. prad.* (*Ballivo Libertat. de* C. *vel*) *Ballivo Hundred. de* A. *Salutem. Virtute cujuſdam præcepti mihi directi. Tibi mando quod Venire fac. coram* O. B. *Mil. & Bar. &* S. B. *Mil.* &c. *Juſticiar. Aſſiz. in Com. prad. ad Aſſizas apud* L. *in Com. prad. decimo die Auguſti prox. tenend.* (or thus) (*die Lunæ exiſtent. proximo die* M. *proxim. futuro*) *omnia brevia*, &c. *Necnon*, &c. *ſeperal. perſon. ſubſcript. ad faciend. ea quæ tunc & ibidem ex parte Domini Regis eis injungent. Publice etiam proclamari facias per totam Balliv. tuam quod omnes illi qui ſequi*

ſequi voluerint verſus Priſon. in Gaol. (*Domini Regis*) *Com. præd. quod tunc ſint ibi verſus eos prout juſtum fuerit proſecutur. Scire facias etiam omnibus Juſtic. pacis, Major. Coronat. Seneſchall. Dominor. & Magnatum, Eſceatoribus, Ballivis Libertatum & omnibus Capital. Conſtabular. infra Hundred. tuum quod tunc ſint ibi cum Rotulis, Recordis, Indictamentis & aliis Memorand. ſuis ad fac. ea quæ ad ſeperal. Officia ſua pertinent & quod tuipſe ſis adtunc ibidem ad faciendum omnia ea que ad Officium tuum pertinent & habeas ibi nomina præd. Juſtic. Major. Coronator. Seneſchal. Eſceator. Ballivorum Libertatum necnon Capital. Conſtabular. una cum hoc præcepto ſub periculo incumbente. Dat. ſub ſigillo Officii mei tali die & Anno, &c. Anno Domini. 1672.*

A. B. *Miles Vic.*

A. B. *Mil. Vicecom.* &c. *Ballivo Hundredi de* R. *ſalutem. Ex parte Domini Regis tibi mando quod per totam Ballivam tuam Publice proclamari fac. deliberat. Gaol. Domini Regis in Com. præd. eſſend. coram* O. B. *Mil. & Baronetto*, &c. *& ſociis ſuis* Aliter.

ſuis Juſtic. Domini Regis ad Aſſizas, &c. apud L. in Com. pred. dic Lunæ, &c. Et quod omnes illi conquer. volentes verſus aliquos Priſonar. infra Gaolam pred. ad locum, prædict. Ac viginti quatuor probos & legales homines Hundred. pred. de Vicin. in quibus aliqui Priſon. indictat. areſtat. vel appellat. exiſt. una cum quatuor hominibus & præpoſit. cujuſlibet Villæ & loci in quibus Priſonar. pred capt. fuerunt tunc ſint ibidem parati ad audiend. & faciend. ea, &c. Et habeas ibidem nomina Jurator. pred. Et hoc præcept, &c. Datum die, &c.

Tibi etiam mando quod capias T. C. de I. (or has perſonas ſubſcript.) Ita quod corpus ejus (or corpora eorum) habeas coram Juſtic. pred. ad diem & locum pred. ad reſpondendum dicto Dom. Regi de quibuſdam tranſgreſſionibus & contempt. unde indictatus exiſtit (or indictati exiſtunt) & hoc, &c.

Tibi etiam mando quod Venire fac. has perſonas, in Schedula huic Warrant. annexa nominatas, Ita quod ſint ad diem & locum prædict. ad faciend. ea quæ eis tunc & ibidem injungentur.

Per. H. S. Sub Vicecom.

And

And file a Schedule to the backſide of this Warrant, in which Schedule may be ſet down, the Names of ſuch as the Bailiffs ſhall warn for the great Inqueſt by themſelves, And for the Jury of Life and Death by themſelves. Theſe two laſt Subſcriptions or the like may be written under the former Warrant, and then the Warrant to be ſigned under the Sheriff or Under-Sheriff's hand and Seal of Office: Or elſe at the end of the Warrant (*ſc.* under it) the Sheriff or Under-Sheriff may ſet down the names and dwelling-places of ſuch as he will have warned to ſerve in or upon the Grand Jury in particular, and he ſhall do well to keep a note of them, that he may be able to ſhew to the Court, if need require, who he had determined to have returned for that ſervice if they had come, and if the fault fall out to be in the Bailiff, then he ſhall be puniſhed and the Sheriff excuſed.

Note, for this great Inqueſt (or Grand Jury) it is meet that three or four be returned out of every Hundred and the Names of the Hundreds to be written in the

Margin of the Return againſt the names of the Hundreders.

And if the Sheriff ſhall return any ſuch Jurors (either to the Aſſizes or to the Seſſions of the Peace) without giving them warning by his Bailiff, the Sheriff is Fineable.

The

The Clerk of the Aſſizes, Judges, and Marſhals, and Cryers directions: Being

The manner and form of Proceedings at the Aſſizes and general Goal-Delivery, holden by His Majeſtie's Juſtices according to the Laws and Cuſtomes of ENGLAND.

FIRST, when the Court is ſet, the Cryer muſt make three Proclamations.

Then the Clerk of Aſſize muſt cauſe him to ſay as followeth,

Viz.

My Lords, the King's Juſtices do ſtraitly charge and command all manner of perſons to keep ſilence, and hear the King's Majeſties Commiſſions of

Assize and *Nisi prius* openly read, upon pain of imprisonment.

Then must the Clerk of the Assizes read.

1 Patent of Assize.
2 The Patent of Association.
3 The Writ of Admittance.
4 The Writ *Si non omnes*.

And then must say, *God save the King.*

Then the Cryer must make one Proclamation, and say,

Essoins. If any man will be essoined in Assize of *Novel disseisin*, Assize of *Mortdauncester*, Certificate of Assize, *Juris Utrum*, or *Attaint*, let him come forth, and he shall be heard.

Then the Cryer must make another Proclamation, and say,

All manner of Persons that have any Writs of Assize, or Records of *Nisi prius* to be put into the Court, put them in forthwith, or none shall be received.

Then must the Cryer make a Proclamation, and say,

My Lords, the King's Justices straitly charge and command all manner of persons to keep silence, and hear the King's Majesties Commissions of *Oyer* and

and *Terminer*, and general Goal-delivery to be openly read, upon pain of imprisonment.

Then must the Clerk of the Assizes read the Commissions of *Oyer* and *Terminer*, and general Goal-delivery, that done, say, *God save the King.*

Then the Cryer must make another Proclamation, and say,

Sheriff of the County of *L.* return the Precepts and Writs of Assize, and *Nisi prius* to thee directed and delivered, upon pain and peril, *&c.*

Sheriff returns of the summons of Assize.

Then the Cryer must make another Proclamation, and say,

All Justices of the Peace of our Soveraign Lord the King within the County of *L.* answer to your names at the first call, upon pain and peril that may fall thereon.

The form of calling the Justices and other Officers

Then the Clerk of the Assize must name them as they are returned in the Calendar, and the Cryer must call them.

When they are called, then must the Cryer say, all Coroners of our Soveraign Lord the King, within the County of *L.* answer to your names as you shall be called every man at the first call,

upon pain and peril that ſhall fall thereon.

Then they muſt be called as they are returned in the Calendar.

When they are called, then muſt be called all Stewards of Liberties of our Soveraign Lord the King, *&c.* by their names as they are returned.

After muſt be called the chief Conſtables as they are returned, and after them the Bailiffs of the Hundreds as they are returned.

Giving unto them their ſtiles in the firſt place as all Stewards, *&c.* And when they are done, all chief Conſtables, *&c.* And when they are done, then all Bayliffs of Hundreds, *&c.*

Then muſt the Cryer make a Proclamation, and ſay,

Calling for return of Inquiſitions.

All Juſtices of Peace, Coroners, Stewards of Leets and Liberties, and other Officers that have taken any Inquiſitions, Indictments, or Recognizances, whereby you have let any man to bayl, put in your Records thereof forthwith, that my Lords, the King's Juſtices may proceed thereon.

Then muſt the Cryer make another Proclamation, and ſay.

You

Form of calling the grand Jury.

You good men that be impannelled to enquire for our Soveraign Lord the King, for the body of the County of *L.* anſwer to your names every man at the firſt call, upon pain and peril that ſhall fall thereon.

Then the grand Jury muſt be called in order, every one by his name, and when they have appeared, they muſt be ſworn by the Marſhal. Then,

The Fore-man by himſelf muſt lay his hand on the Book, and then the Marſhal gives the oath as followeth.

The Oath of the grand Jury.

You as Fore-man of this Inqueſt, for the body of this County of *L.* you ſhall diligently enquire, and a true preſentment make of all ſuch matters and things as ſhall be given you in charge: the King's Majeſties Counſel, your fellows, and your own you ſhall keep ſecret, you ſhall preſent no man for envy, hatred, or malice, neither ſhall you leave any man unpreſented for love, fear, favour, or affection, or hope of reward, but you ſhall preſent things truly as they come to your knowledge, according to the beſt of

your understanding, so help you God.

The rest of the grand Jury by three at a time in order, are sworn as followeth.

The same Oath which your Fore-man hath taken on his part, you and every of you on your behalf shall well and truly observe and keep, so help you God.

When the grand Jury is sworn, the Cryer must make Proclamation, and say,

Charge giving. My Lords the King's Justices, straitly charge and command all persons to keep silence whilst the charge is in giving to the grand Jury, upon pain of imprisonment.

When the charge is given, the Cryer must make a Proclamation, and say,

All manner of persons that have any Bills of Indictment to put unto the great Inquest, put them into the Court first, that my Lords the King's Justices may proceed thereon.

Calling of Prosecuters. Then must be called the Parties, that are bound to prosecute by their Recognizances put in by the Justices, that they may get their Bills made against the Prisoners,

ſoners, and be ſworn unto them by the Cryer, and ſent to the grand Jury with a Bayliff to give their Evidence.

All this for the moſt part is finiſhed the firſt day in the forenoon, And then the Court riſing.

The Clerk of the Goal fileth up his Recognizances delivered in Court, ſuch as are to proſecute againſt Offenders upon one file, and ſuch as are for appearance of offenders called bails upon another file, and all examinations taken before Juſtices of Peace upon a third file, and taketh a little Note or Calendar of them for the ready finding of them out by figures. *Filing of the Recognizances.*

When the Court ſitteth in the Afternoon, they ſend for the grand Jury, who when they appear, the Clerk of Aſſize calleth them by their names, and demandeth of them if they be agreed of any Bills, if they ſay yea, the Clerk of the Aſſize bids them preſent them to the Court, and upon the delivery of them, he ſaith,

You are content the Court ſhall amend form, and falſe Latine, altering no matter of ſubſtance in thoſe Bills which you have found to be true.

The grand Jury ſay, yea, and ſo they go together again.

Filing the Bills. Then doth the Clerk of the Aſſize file up the Bills which are found true upon the file with the Calendar and Precept for ſummoning of the Aſſize formerly returned by the Sheriff, and that being orderly done, and the Jailor having brought his Priſoners to the Hall.

The Cryer maketh Proclamation, and ſaith,

My Lords the King's Juſtices ſtraitly charge and command all perſons to keep ſilence, for now they will proceed upon the Pleas of the Crown to the arraignment of Priſoners upon life and death, and that all perſons that have any evidence to give againſt any of the Priſoners, draw near and give your attendance upon forfeiting your Recognizances.

Then doth the Clerk of the Aſſize begin with his firſt Indictment upon the file in order, and biddeth the Jailor ſet the Priſoner named in that Indictment to the Bar; If he be let to baile, and not in the Goal, then the Clerk cauſeth the Cryer to call him on this manner.

A. B. come forth, ſave thee and thy baile, or elſe thou forfeiteſt thy Recognizance. *Calling of Bailes.*

If he appear not, then call the ſureties on this manner,

J. W. and *T. S.* with their additions as they are written, bring forth *A. B.* whom you undertook to have here this day, or elſe you forfeit your Recognizance.

If he appears not, then the Clerk of the Aſſizes paſſeth by that Indictment, and calleth to the Goaler to ſet forth the Priſoner named in the next Indictment, and when he is at the Bar, the Clerk of the Aſſizes ſaith unto him as followeth.

Thou ſtandeſt here indicted by the name of *J. S.* for that thou, *&c.* and ſo read all the Indictment in *Engliſh*, and then ask him, what ſayeſt thou, art thou guilty of this murder, or what it is for, whereof thou ſtand'ſt indicted, or not guilty? if he ſaith not guilty, Then the Clerk of the Aſſizes muſt ask him, how wilt thou be tryed? If he ſay by God and the Country. Then muſt the Clerk of Aſſize ſay, God ſend thee a good deliverance, and write over his head in the Indictment *Po. Se.* So proceed to the

next until ſo many are arraigned as will ſerve for a petty Jury to paſs upon at once,

Confeſſion.

If any Priſoner upon his arraignment confeſs his fact, then muſt be written over his head in the Indictment this (Cogn.) and ſo is be ſet by till the time of giving Judgement.

If any Priſoner upon his Arraignment doth refuſe to be tryed by his Country, and yet plead *non cul*, then muſt be written over his head in the Indictment theſe words, *Stat mutus*, and he muſt be ſet by till Judgement giving, unleſs he puts himſelf upon his Country in the interim.

When enough of Priſoners are arraigned to be tryed by a petty Jury, then muſt the Clerk of Aſſize call to the Sheriff, for a pannel of Jurors to try the Priſoners, and then know of the Judge how many he will have tryed by that Jury.

Calling of the Jury of life and death.

Then he muſt call the Jury thus, you good men that be impannelled to enquire between our Soveraign Lord the King, & the Priſoners at the Bar, anſwer to your names every man at the firſt call, upon pain and peril that ſhall fall thereon, and then he calls every one in order by his name.

When

When the Jury hath appeared, then muſt the Clerk of the Aſſize call the Priſoners to the Bar that ſhall be tryed by the Jury, every man by his name, and then ſay unto them,

Challenge allowed to the Priſoners.

Theſe good men that were laſt called, and have here appeared, are thoſe that ſhall paſs between our Soveraign Lord the King, and you upon your lives and your deaths, if therefore you or any of you will challenge them, or any of them; you may challenge them as they come to the Book to be ſworn, before they be ſworn, and you ſhall be heard.

Then muſt the Cryer make a Proclamation, and ſay,

Information for the King againſt the Priſoners.

If any man can inform my Lords the King's Juſtices, the King's Serjeant, or the King's Attorney, or this Inqueſt to be taken between our Soveraign Lord the King, and the Priſoners at the Bar of any Treaſon, Murder, Felony, or other Miſdemeanour committed or done by the Priſoners at the Bar, or any of them, let them come forth and they ſhall be heard, the Priſoners ſtand at the Bar upon their deliverance.

Then

Note that every Juror must lay his hand on the Book, and look towards the Prisoners

Then must the Clerk of Assize call the Jury to be sworn every man severally, and the Marshall must swear them all severally on this manner.

Oath of the Jury of life and death.

You shall well and truly try, and true deliverance make between our Soveraign Lord the King, and the Prisoners at the Bar, whom you shall have in charge according to your Evidence, so help you God.

Crying of the Jury.

When they are all sworn, the Clerk of Assize must cause the Cryer to count them as he reads their names, and that done, he must ask them whether they be all sworn, or not, if they say yea,

Then they must divide themselves at the Bar, some on one side, some on the other.

Then the Clerk of the Assizes must call the Prisoner named in the first Indictment upon the file, as he hath pleaded in order to the Bar, and bid him hold up his hand, and then say to the Jury.

Look upon the Prisoner you that be sworn, and hearken to his cause.

Charge of the Jury of life and death.

You shall understand that he stands indicted by the name of, *&c.* as in the Indictment, for that he, *&c.* and read the Indictment as he did upon the arraign-

ment,

ment, and that done, the Clerk of the Aſſizes muſt immediately ſay, upon this Indictment he hath been arraigned, upon his arraignment, he hath pleaded not guilty, and for his tryal hath put himſelf upon God and the Country, which Country are you, ſo that your charge is to enquire whether he be guilty of this Felony whereof he ſtands indicted, or not guilty, if you find him guilty, you ſhall enquire what Lands, Tenements, Goods, and Chattels he had at the time of the Felony committed, or at any time ſithence: if you find him not guilty, then ſhall you enquire if he did flye for it or not, if you find that he did flye for it, then you ſhall enquire what Goods or Chattels he had at the time when he did flye for it, or at any time ſithence; if you find him not guilty, nor that he did flye for it, ſay ſo and no more, and hear your Evidence.

Then muſt the Clerk of Aſſize direct the Cryer to call the Witneſſes as they be ſubſcribed to the Indictment. *Calling of witneſſes.*

When that is done, and the Witneſſes for the King do appear, the Clerk of the Peace cauſeth them to lay their right hands upon the Book and giveth them this Oath.

The

The Evidence that you, and every of you, ſhall give to this Inqueſt againſt J. S. *Priſoner at the Bar, ſhall be the truth, the whole truth, and nothing but the truth, ſo help you God.*

When all the Witneſſes for the King have been heard, then if the Priſoner deſires that any Witneſſes ſhould be heard for him, they muſt be called alſo, but they ſhall ſpeak without Oath, unleſs the Fact be under Felony, or that ſome Statute doth direct the ſame, and then

They proceed to the next Priſoner, as the Indictments are filed in order, with this difference only.

When the Clerk of Aſſize hath read over the Indictment as before, he only ſaith as followeth, *viz.*

Upon this Indictment he hath been arraigned, upon his arraignment he hath pleaded not guilty, and for his tryal he hath put himſelf upon God and his Country, which Country you are, ſo that your charge is to enquire whether he be guilty of this Felony whereof he ſtands indicted, or not guilty, and further to enquire of him as you had in charge to enquire of the firſt Pri-

Priſoner, and hear your Evidence.

And then call the witneſſes upon that cauſe as they are ſubſcribed to the Indictment.

After they are heard then if the Priſoner deſires that any Witneſſes be heard for him, they muſt be called alſo, but they muſt ſpeak without Oath.

When that Priſoner hath done, then they proceed to the next, and ſo one after another, till the Jury be fully charged.

Reading of Proclamations.

In the mean time as the Priſoners are upon their ſeveral tryals, the Clerk that keepeth the Goal Book, looketh out every examination of every Priſoner as his cauſe is in hearing, and if it be Evidence for the King, he readeth it to the Jury.

Bill of Cauſes.

Alſo he maketh ready a Note of the Juries names, and ſubſcribeth the Priſoners names, and their offences as they ſtand charged withal, underneath the ſame, and when the Jury is ready to go from the Bar, he delivereth it unto them for their better direction and help of their memory to know who they have in charge.

When

Sending for the grand Jury.

When the Jury is gone from the Bar if there be not Indictments found enough to charge another Jury, the Court doth ſend to the grand Jury to bring in ſome more Bills if they are ready; and in the mean time, or ſome other time when the Court is at leiſure,

Taking the Conſtables Preſentments

The Clerk of the Goal Book calleth the chief Conſtables to deliver in their Preſentments.

Which done, the Court taketh the appearance of the grand Jury as aforeſaid, and proceedeth to the arraignment of Priſoners and tryalls of them, as before is expreſſed untill all be done.

Taking of the Verdict of the Jury of life and death.

When the Jury of life and death are agreed, and come to the Court to give their Verdict. The Clerk of Aſſize muſt firſt call them by name, and ask them if they be agreed of their Verdict, and who ſhall ſay for them, and call the firſt Priſoner to the Bar, and bid him hold up his hand.

Then ſay to the Jury, look upon the Priſoner you that be ſworn, what ſay you, is he guilty of the Felony whereof he ſtands indicted, or not guilty?

If they ſay guilty.

Then aſk what Lands, or Tenements, Goods or Chattels had he at the time of the Felony committed, or at any time ſithence.

If they find any, they muſt be Recorded: but their common anſwer is; none to our knowledge.

Then the Clerk of Aſſize ſaith, take him Goaler.

If the Jury ſay, not guilty.

Then aſk if he did flye for it or not, if they find a flight, it muſt be Recorded, but their common anſwer is, not to our knowledge.

And ſo muſt the Clerk of Aſſize proceed to every Priſoner particularly, which the Jury hath in charge, writing after the words (*Po. ſe.*) over the ſeveral names of the Priſoners, *Cul.* or *non cul.* as the Verdict is, and then he muſt ſay to the Jury, hearken to your Verdict as the Court recordeth it, and then he repeateth it in this manner.

You ſay A. B. is guilty of the Felony whereof he ſtands indicted, and that he hath no Goods nor Chattels.

That C. D. is not guilty, and ſo of the reſt.

And then concludeth, and ſo you ſay all.

And bid them put in their Bill of cauſes.

Tryal of Riots and Treſpaſſes.

Memorand. That all Indictments upon Riots, Treſpaſſes, and other miſdemeanours under the degree of Felony, the parties whereunto are either in Priſon, or bound to appear by Recognizance; upon their appearance, they muſt be tryed after the Felons.

And thoſe that are found guilty, the Judge impoſeth a Fine upon them, and other puniſhment as he findeth the nature of the offence.

Delivering of Priſoners by Proclamation.

After all the Indictments preferred to the grand Jury be returned into the Court, or before if leiſure permit, the Clerk of the Goal calleth over all his bails that are not formerly called upon their arraignments, there being no Bills preferred againſt them, and upon their appearance, he acquainteth the Judge with who committed them, and the reaſon thereof, as it is expreſſed in the Recognizance, and how no man cometh againſt them; and likewiſe he peruſeth the Goal Priſoners, and Bail priſoners, againſt whom the Bills of Indictment are

return-

returned *ignoramus*, and against whom there are no Indictments preferred, and informeth the Judge of their cases, and if no man cometh against them during the Assizes, they are delivered by Proclamation as followeth.

If any man can inform my Lords the King's Justices, the King's Serjeant, or the King's Attorney, of any Treason, Murder, Felony, or any other misdemeanour committed or done by *A. B. &c.* and name them all in order, or any of them now prisoners at the Bar, let him come forth, and he shall be heard, the prisoners stand upon their deliverance. *Proclamation.*

Note that the Clerk that keepeth the Goal Book, in the beginning of the Assizes, setteth down in the Book, first a note of the day when the Assizes is holden, and the Judge's name and Sheriff's name in a short compendious manner used for that purpose, *ut patet in libro.* *Form of keeping the Goal Book.*

Next unto that he setteth down the prisoners names as they are returned by the Sheriff in the Calendar, beginning with the reprieves formerly left in the Goal, and then the rest in order, leaving a reasonable distance betwixt every name, and so also of all bails, for which

he hath Recognizance returned in by the Juſtices.

And when any Indictment is found againſt any Priſoner, and he arraigned thereupon: he ſetteth down briefly his offence, at the end of his name, as (for a Mare) or the like, and if the Priſoner put himſelf upon the Country, then he writeth over his name (*Po. Se.*) And if he will not be tryed by the Country, then he writeth over his name, *Stat mutus*, and if the Priſoner continue obſtinate, and will not be tryed, then he addeth thereto (*Paine fort & Dur.*) And if the Priſoner confeſs the fact upon his arraignment, then he writeth over his name (*Cogn.*) And when a Priſoner is tryed and found guilty, and had no goods, he addeth unto the former words, *Po. ſe. cul. nul. bona.* And if the Priſoner be found not guilty, nor that he did flie, then he addeth to the former words, *Po. ſe. non cul. r*, And if the Priſoner be found guilty of petty Larceny, then he writeth to the former words (*Po. ſe. cul. de parva felon val. xd.*) And if the Priſoner be found guilty of a Felony, wherein he may have benefit of Clergy, and the Priſoner demand the ſame and can

read

read, then he addeth to the former words *Po. ſe. cul. nul. bona. pe. li. le. cre.* And if the Priſoner cannot read when his Book is allowed him, then he addeth to the words, *Pe. li. ſed non legit Jo. ſius.* but if the offence whereof the Priſoner is found guilty, be ſuch as the benefit of Clergy cannot be allowed by Law, then he writeth unto the former words, *Po. ſe. cul. nul. bona.* And againſt ſuch priſoners as *ignoramus* is found upon the Bill preferred againſt them, he writeth in the Margent behind their names ſeverally *(Ign.)* And the offence ſeverally before their names (as for a Gelding) and the like, and over his head *(Del.)* and over the names of ſuch priſoners as there are nothing againſt, he writeth *(Del.)* and over ſuch names as do not appear upon their Recognizance, being called, he writeth *(defalt.)* And after ſuch names as are to be ſent to the houſe of Correction, he writeth (to be ſent to the Houſe of Correction) or *r. Dom. Correctionis*; for the better explanation hereof, I have written this ſmall form underneath, if the priſoner be twice indicted, then the two offences after the name, and the figure of 2 behind it.

3 St. md. *Po. se. cul. bona*, &c.

Jobes Doo for a Mare, for Lynnens.

Md. *Po. se. cul. nul. bona pe. li. le. cre.*

Ricus Roo for Heifers and Sheep.

Po. se. cul. nul. bona.

Thomas Denn for Lynnens the value of ten pence.

Po. se. non. cul. nec. r.

3 Md. *Willus Fenn* for six Oxen, two Weathers, for a Hog.

Ign. *Adamus del Pye* for Burglary *Defalt.*

Note, that where he beginneth to enter his Bails, he writeth (*B*) in the Margent.

Franciscus Mye.

B, *Stat. mut. pain. fort. & dur.*

Md. *Joes Trimtram* for murder.

Po. se. cul. nul. bona.

Sus. md. *Nichus Skilington* for eight Ewes.

Some other forms there be, which as they arise are set down after the natures of the offences: The Goal Book is full of examples, and therefore I omit them here.

Also all orders made by the Court for continuance of any man in prison, or sending any to the house of Correction, all Fines set upon any prisoner for Trespass, all Defaults upon Recognizance

to anſwer ; all orders for Attachments, and other Warrants, and all ſubmiſſions of Recuſants are uſually recorded in the Goal Book, and alſo writs of good behaviour.

Note alſo, that he that keepeth the Goal Book, having made perfect his Calendar, as the Verdicts are given, he doth draw out into a ſheet of paper in the firſt place the names of ſuch as are to ſuffer death under one Title, the names of ſuch as are to have benefit of Clergy under another Title, ſuch as are guilty of petty Larceny under another Title, ſuch as are found not guilty under another Title, and ſuch as are to be delivered by proclamation, againſt whom there is nothing in Court, under the laſt Title. *Calendar.*

And under the firſt Title ſuch as ſtand mute, if any be, by themſelves, and in another place, ſuch as are to be ſent to the houſe of Correction.

That Calendar being made perfect and delivered to the Judge, and he ready to give Judgment, the Clerk of Aſſize cauſeth the Goaler to ſet all the Priſoners found guilty above petty Larceny, to the Bar, and ſaith unto them thus,

The form of calling the Priſoners to Judgem.nt.

You may remember that before this time you have been ſeverally indicted for ſeveral Felonies, and ſome of you for Murders, by you done and committed; upon your Indictments, you have been arraigned; and have ſeverally pleaded not guilty; and for your tryals you have ſeverally put your ſelves upon God and the Country, which Country hath found you guilty, what can you now ſay for your ſelves, why according to Law you ſhould not have judgement to ſuffer death, and then ask them by name ſeverally.

What ſayeſt thou A. B, &c.

Clergy.

Then if he claim his Clergy, and may have it by Law, the Ordinary muſt be called to ſhew him the Book, and when he hath ſhewed it to him, the Clerk of Aſſize muſt ſay, *legit ut Clericus vel non.*

If the Ordinary ſay *legit*, then muſt the priſoner be burned in the hand: but if the Ordinary ſaith *non legit ut Clericus*, the priſoner muſt be executed.

When all have had benefit of Clergy, which may have it by Law; then doth the Judge (after an Exhortation made to the priſoners that are to ſuffer death)

give

give Judgment, and ſuch priſoners againſt whom no man proſecuteth, and againſt whom *ignoramus* is found, being proclaimed as aforeſaid, the Goaler is commanded to take away his Goal.

Then doth the Court ſend for the Grand Jury; but you muſt note by the way, that whil'ſt the Court is in trying the priſoners as aforeſaid, ſome one of the Clerks doth take a note of all the Recuſants preſented by Conſtables out of their preſentments, And doth make them into a Bill of Indictment in form of Law; and doth ſend both it and the preſentments to the Grand Jury, and now, if not afore, at their coming in they deliver the ſame bill together with their preſentments of other grievances, and having ſo done they are uſually diſcharged, except extraordinary buſineſs alter it.

Proclaiming of Recuſants.

If the Indictment againſt the Recuſants be found, then doth the Clerk of Aſſize cauſe the Cryer to make a proclamation, and then reading the names, and the Cryer repeating them with their additions as they are in the indictment, he concludes after the laſt name thus; Being indicted at theſe Aſſizes for not coming

to

to the Church by the ſpace of one month (or more as it is laid in the Indictment) yield your bodies to the Sheriff of this County, ſo that he may have the ſame before the King's Majeſties Juſtices at the next Aſſizes, and general Goal-delivery to be holden for this County, or elſe you, and every of you ſhall be convicted of Recuſancy, according to the form of the Statute in that caſe made and provided.

This being done, the Judge having heard ſuch grievances as are complained of unto him concerning miſdemeanors, and the like.

The Cryer maketh three Proclamations to adjourn the Aſſizes.

Adjourning of the Aſſizes.

And then ſaith, All manner of perſons that have here appeared before my Lords the King's Juſtices, at theſe Aſſizes and general Goal-delivery, may now depart at preſent, and keep your day again, here or elſewhere upon a new Summons, and God ſave the King, and ſo the Court riſeth.

And note that if the Niſi prius *are not ended, they are adjourned over to that Court, and when they have done, they make this general adjournment.*

Note

Note alſo that at every riſing of the Court it is adjourned over by proclamation to ſuch an hour in the Afternoon, or in the morning until the Aſſizes be ended.

Note that where it is ſaid, the Cryer muſt ſay ſuch and ſuch words, if he be not expert himſelf, the Clerk of Aſſize muſt direct him.

Note alſo that all ſuch perſons againſt whom the Sheriff returneth *Cepi Corpus* upon any Writ of Aſſizes delivered unto him, ought to be called in Court in convenient time, if they appear not otherwiſe.

Note alſo, that where it is ſaid the Clerk of Aſſize muſt do ſuch and ſuch things, they are uſually done by the aſſociate for that ſide.

Note alſo, that in calling the Juſtices of Peace, Coroners, Stewards of Liberties, chief Conſtables, and Bayliffs of Hundreds, and grand Juries, and other Juries, their appearances are marked with (u) and their defaults left blank in the Margin, except the Judge ſet a Fine upon any of them for not appearing, then that is ſet down in the Margin.

Note

Note that ſuch Clerks as make Indictments are in Action as long as occaſion requireth about them, and Writs of Reſtitution, or to remove priſoners, &c. but their employment is of that nature, that it cannot be here expreſſed.

Your Clerk's employment concerning making *Subpœna*'s, and taking appearances upon preſentments, I ſuppoſe you ſufficiently know, and ſo have I done on the Goal ſide: there are other obſervations which practice muſt make manifeſt.

The Proceedings on the Niſi Prius.

WHen the Court is ſet, and Records and Writs put into the Court fit for Tryal: the Cryer muſt make a proclamation, and the Clerk muſt direct him to ſay,

Calling the Jury. You good men of the *Niſi prius* ſummoned to appear here this day, betwixt *A. B.* Plaintiff, and *C. D.* Defendent, anſwer to your names, every man at the firſt call, and ſave your Iſſues.

Then muſt they be called by name with this concluſion, thou loſeſt a mark

mark in iſſues to every one of them. And if a full Jury do not appear, then call the defaults without addition, and then if twelve do not appear, ſay *Vous avis nul inqueſt.*

Then call the Defendent *C. D.* come forth or this Inqueſt ſhall be taken in thy default, this muſt be done thrice, if the Defendent appear not, then muſt the Clerk write on the back of the Pannell, *per default.* *Calling the Defendant.*

Then the Clerk muſt ſay, Parties look to your challenge, and ſo call the Jury ſeverally in order to the Book to be ſworn; and as they come to the Book the Marſhal muſt ſwear them, unleſs the Plaintiff challenge any of them, which if he doth, the Juror ſo challenged muſt ſtand by till the reſt be ſworn to eleven more in rank as they appear, and then the Clerk muſt ask the Plaintiff why he challengeth ſuch a man. *Challenge.*

Then the Plaintiff ſhewing his cauſe, if it be ſufficient, the verity ſhall be tryed by two other ſworn upon the ſame Jury, if they find the cauſe true, then he ſhall be ſpared, otherwiſe he ſhall be ſworn.

If he be ſpared, and there do not appear enough on the principal pannel to make

make a full Jury, then the Plaintiff must pray *a tales de Circumstantibus.*

Tales.

Which being granted by the Judge.

The Sheriff must return some names for that purpose, such as are then within view of the Court.

And then the Clerk must direct the Cryer to call them on this manner.

You good men of the *Tales* newly returned according to the form of the Statute, answer to your names every man at the first call, and save your Issues, or upon pain and peril, *&c.*

Then they appearing must be sworn with the other Jurors.

Their oath.

You shall well and truly try the Issue of this *Nisi prius*, between the parties, according to your Evidence, so help you God.

And when they are sworn, they must be counted, and asked if they be all sworn, and bid stand together and hear your charge.

Charge of the Jury on the Nisi prius.

Then must the Associate for that side read the Record, and charge the Jury as the Record is, what they are to enquire, the certainty cannot be here expressed.

Then

Then do the counſel on both ſides open the Cauſe one after another, the *Plaintiff's* counſel firſt, if the proof lye on his ſide, otherwiſe the Defendent's, and produce ſuch witneſſes as do prove ſuch matters as they alledge, *&c.*

In the interim doth the Clerk file the Writ, Pannel, and Record together.

And maketh a Copy of the Juries names, and the Iſſue they are to try, and when the counſel have done, he delivereth it to the Jury; and a Bayliff being ſworn to keep them till they be agreed, without Meat, Drink, *&c.* they depart from the Bar, and when they are agreed, they return to give their Verdict. *Copy of the Iſſue.*

Then doth the Clerk call them by their names, and ask them if they be agreed of their Verdict, and who ſhall ſay for them. *Taking the Verdict.*

Then muſt the party be called thrice.

A. B. come forth, or elſe thou loſeſt thy Writ of Niſi prius.

If he appear not, then the Defendent muſt pay the Jury, and the Fees of the Court, and have the non-ſuit recorded.

But if the Plaintiff appear, then the Clerk asketh the Jury.

What say you, do you find for the Plaintiff, or for the Defendent, and what costs and damages according as the cause is, and so he entreth it on the back of the Pannel, and repeats it to the Jury; Ye say we find, &c.

Note, that in Debt costs and damages.

Tresp. Damages, 10 *s. Costs* 40 *s.*

Ejectment Dam.——Costs 40 *s.*

Nusance Costs.

Covenant, Dam. 10 *s. Costs* 40 *s.*

Audita Querela sur Stat. The Issue and value of the Land.

Waste. Treble damages.

Quare Impedit.

1. Whether the Church was void by the death of the Incumbent?

2. Whether it be now full, and of whose presentation? and whether six months be past? and what is the value of the Church?

Debts for Tythes, treble value of the Tythes, and no costs nor damage.

The Verdict.

In Dower. *Inquiratur si vir obierit sezitus de tenementis, prædictis in dominico suo ut de feodo, aut de feodo talliato. Et si ita inveni-*

Venierint tunc quantum tenementa illa valent per annum in omnibus exitibus ultra repriſes juxta vera valore eorundem & quantum tempus dilabitur a tempore mortis prædicti viri. Et quæ Dampna, petent ſuſtinet tam occaſione detentionis datæ quam premiſis.

The Jury finding the dying Seiſed, they muſt aſſeſs Coſts and Damages, but if they find the Husband was Seiſed, but did not dye ſo, then no Coſts nor damages, but only the value of the Land. *En Dower nota.*

In Detinue. *Si pro quer. de valore rei detent. & cuſtag. & dampna.*

In Replevin. Damages for both parties, and Coſts.

In Account. No damages no coſts.

In Placito terræ. Nulla dampna nec cuſtagia.

Warrantia Chartæ. Conſimile.

Aſſize. *Conſimile.*

Prohibition. *Si pro quer. tum enquir. de exitibus & non plus.*

Partitione faciendâ. Si pro quer. tunc de exit. & non plus.

En brevie de Entry in le per. Cuſtag. & dampna.

In all real Actions, generally no more than the Iſſue.

Note that in all cauſes that come by *Niſi Prius*, betwixt party and party, if the Jury appear not full, the proſecutor of the Record may have a *Tales* if he pray it.

Note alſo, that if the Defendent appear not when he is called, he loſeth the benefit of his challenge to the Jurors, but if he appear he may challenge them.

And many other things may happen in Execution of this buſineſs, which time and obſervation will make perfect.

In the mean time you muſt take theſe as the Heads.

The Term buſineſs after the Aſſizes.

Returning of Poſtea's.

FIrſt the returning of all the Poſtea's which muſt be done on the backſide of the Records, tryed at the Aſſizes, which muſt be done as they are called for by the Attorneys, for ſuch as are agreed will not be called for at all.

The

The putting of all such persons out of Process as have appeared at the Assizes, and are discharged, and entring of them in a Book for that purpose. *Out of Process.*

The putting of all such persons into process as are newly presented by the grand Juries and chief Constables, at the last Assizes, and entring them into the Book of process. *Into Process.*

The writing over the process again for every Shire, and delivering of them to the several Sheriffs to be executed. *Making of Process.*

The certifying of the Convictions of all such as were burned in the hands throughout the whole circuit, and also all Inquisitions of *Felo de se*, *per infortunium & ex visitatione Dei*, returned by the Coroners this last circuit into the crown Office. *Certifying of Convicts and Inquisitions.*

The drawing up, and entring of all special Verdicts of the last circuit, and others behind, if any be. *Special Verdicts.*

The certifying of the conviction of all the Recusants convicted at these Assizes into the Exchequer in *Easter* Term. *Convictions of Recusants.*

The making of a little short certificate to the Lord Keeper, of all the notorious facts in the circuit when the Judges shall *Making Certificate.*

call for it according to the truth of the proceedings.

General Eſtreat.

The making of the great Eſtreat in *Michaelmas* Term, of all Forfeitures of Juſtices of Peace, Coroners, Stewards of Liberties, chief Conſtables, Bayliffs of Hundreds, and grand Juries for their not appearance for the whole year, and of all convicted Recuſants at *Summer* Aſſizes, the Amerciaments upon all perſons for Nuſances and Treſpaſſes, and the Iſſues returned by the Sheriff upon the proceſs of the Aſſizes for the whole preceding year, whereupon no appearance hath been made; and the returning of the ſame into the Exchequer. The forms and copies of which Eſtreats from time to time returned, are extant among other records of the Office.

Traverſes.

The drawing up of Traverſes in form of pleading for all ſuch as have taken order for the ſame at the Aſſizes, or ſhall take order in Term-time, to any Indictments of Treſpaſs, Riots, Converſion, Depopulation, decay of High-ways and Bridges, or the like, and the entring of them upon the Traverſe Roll, and making out of *Venire facias* upon the ſame Traverſes.

The

The putting of all such as are indicted of Felony, and are at large into process. *Process against Felons.*

The putting of all such as are indicted for Riots, and other Trespasses into process. *Against indicted Trespassers.*

Note that the first Process in Felony is a Capias *returnable the next Assizes, and after that an* Exigent.

Note also, that the first process in Trespass, is a *Venire facias* returnable at the next Assizes, and after that, a *Capias* or *Distringas*, as the Sheriff shall return the party sufficient or insufficient. *Process in Felony and Trespass.*

And if a Capias, *then* alias Capias, plures Capias, *and* Exigent, *one going forth when the other is returned, unless the party appear.*

And if a *Distringas*, then a Distress infinite until the party appear.

The form of all which Process are extant in the Office.

Some other occasions, as returning of *Certiorari*'s into the crown Office to remove Indictments, happen now and then, which a skilful Clerk will easily perform.

Note in tryals of Prisoners if any woman be convicted of Felony, she shall be *Woman Felons being with child.*

asked what she can say for her self, why she should not suffer death according to the Law.

If she say she is with Child,

Then must the Sheriff return a Jury of Women, who must be sworn, and charged to try whether the Prisoner be quick with Child or not, and then they take the Prisoner and go together, and when they return, to give their Verdict, if they say she is quick with child, the execution of that Prisoner is respited till she be delivered, but if the Jury say she is not quick with child, then she shall be executed.

The form of the Oath.

You as fore-matron of this Jury, shall swear that you shall search and try the Prisoner at the Bar, whether she be quick with child, and thereof a true Verdict shall return, so God help you.

The same oath your fore-matron hath taken, on her part you shall also take and observe, so God help you.

Quare Impedit.

Enquire if the Church be full or not, if it be full, at whose presentation; and if six months be past since the last avoidance, and of what value it is by the year, and Costs and Damages.

In

In Debt. *Cuſtag. & dampna.*
Tranſgr. *Conſimile.*
Ejectione firmæ. Conſimile.
Nuſance. *Conſimile.*
In Waſt. Only treble damages.
Conventione. Dampna & cuſtagia per queren.
En Action de debet ſur Statut. E. 6. *qua extra ponent decimas.* The treble value only, and neither coſts nor damages.

The Manner and Form of Proceedings at the Court of General Quarter Seſſions of Peace, holden by the Juſtices of the Peace, according to the Laws and Cuſtoms of the Realm.

Stat. 2. H. 5. ca. 4.

THe Juſtices of Peace for every County in *England* (except *Middleſex*, where the Court of King's Bench does uſually ſit) muſt hold their ſeveral Courts of general Quarter Seſſions of the Peace for their reſpective Counties upon their uſual Days, in every particular week following the ſeveral Feaſts of the *Epiphany*, the Cloſe of *Eaſter*, the Tranſlation of St. *Thomas* the Martyr (being the ſeventh day of *July*) and St. *Michael* the Archangel; And that every perſon concerned

may

may know the time and place of holding the Seſſions, two or more of them (one being of the *Quorum*) muſt direct a precept under their Hands and Seals to the Sheriffs of their particular County after this manner;

Hertf. ſſ. A. B. *miles & C. D. armiger duo Juſticiarii Domini Regis ad pacem in Comitatu* H. *prædict. conſervandam, necnon ad diverſa Felonias, tranſgreſſiones & alia malefacta in prædicto Comitatu perpetrata audiendum & terminandum aſſignat. Vicecomiti ejuſdem Comitatus ſalutem; Ex parte dicti Domini Regis tibi præcipimus quod non omittas propter aliquam libertatem in balliva tua, quin eam ingrediaris & venire facias coram nobis vel ſociis noſtris Juſticiariis pacis,* &c. *die Lunæ Tertio die Octobris proximo futuro apud Villam de* H. *in Comitatu prædicto tam viginti quatuor probos & legales Homines de quolibet Hundredo in Balliva tua, quam viginti quatuor milites & alios probos & legales Homines de Corpore Comitatus tui (tam infra Libertates quàm extrà) quorum, quilibet* Lambart 366. 367.

quilibet habeat quadraginta ſolidos redditus terrarum & tenementorum liberorum per annum ad minus, ad inquirendum tunc & ibidem ſuper his quæ ex parte dicti Domini Regis eis injungentur. Venire facias etiam omnes priſonar. in Gaola dicti Domini Regis pro Comitatu prædicto exiſtentes, qui ad Generalem Seſſionem pacis pro Comitatu prædicto tent. præfat. die deliberari debent una cum eorum Attachiamentis reattachiamentis & omnibus aliis adminiculis, priſonar. illos qualitercunque tangen. & de Vic. cujuſlibet Villæ & loci ibidem Felonia & alia malefact. unde idem priſonarii indictati ſive arreſtati exiſtunt ſcilicet fuerunt tam infra libertates quàm extra viginti quatuor alios probos & legales Homines de Comitatu prædicto per quos rei veritas melius ſcieri & inquiri poterit, Et qui priſonar. illos nulla affinitate attingunt una cum quatuor hominibus & præponit. Villæ & loci eorum ad faciend. ea quæ tunc ibidem his ex parte Domini Regis nunc injungend. Publicè etiam pro-

This Clauſe is omitted by Mr. Lambert and to be uſed only when ſmall Felonies and petty Larcenies are to be determined at the Seſſions.

proclamari facias per totam ballivam tuam quod omnes illi qui sequi voluerint versus prisonar. illos quod tunc sint ibi versus eos prout justum fuerit prosecutur. *Scire facias etiam omnibus Coronatoribus Comitatus tui, Seneschallis, Constabulariis, Subconstabulariis, & Ballivis Libertatum infra Hundreda & Libertates predict. quod sint tunc ibi ad faciendum & perimplendum ea quæ ad separalia officia sua pertinent. Proclamari præterea facias per totam ballivam tuam in locis idonejs prædictam Sessionem pacis ad diem & locum predict. fore tenendam. Et tuipse tunc sis ibidem ad faciendum & exercendum ea quæ ad officium tuum pertinent; Et habeas ibi tunc tam nomina Juratorum, Coronatorum, Seneschallorum, Constabulariorum, Subconstabulariorum, & Balivorum prædictorum, quam hoc Præceptum. Datum sub sigillis nostris apud Villam de* H. *predict primo die* Septembris *Anno Regni dicti Domini Nostri Regis* Caroli *Secundi nonodecimo Annoque Domini Nostri*, 1667.

This

This Writ of Summons ſhould bear teſt fifteen days before the return, and ought forthwith to be delivered to the Sheriff, to the end he may have ſufficient time to proclaim the Seſſions, to ſummon and return the ſeveral Juries, and to warn all Officers and others that have buſineſs there to attend at the Seſſions.

When the Sheriff has received this precept, he muſt direct ſeveral Warrants to the ſeveral Bayliffs of Liberties, and Bayliffs of Hundreds, containing in them the whole ſubſtance of this precept; and the Sheriff ought to keep for himſelf a particular Note of the names of ſuch perſons as he nominateth in the Warrant to be ſummoned, to ſerve upon the Grand Inqueſt, or upon the particular Juries of Enquiry for Hundreds and Liberties, or upon the Petty Jury for the Tryal of Priſoners; and not to leave it to the diſcretion of Bayliffs to put in and out whom they pleaſe in that ſervice.

The Form of the Warrant from the Under-Sheriff to his Bayliffs.

Hertf. ſſ. E. C. *Armiger Vicecomes Commitatus*

mitatus predict. Ballivo Hundred. de O. & E. salutem. Virtute brevis Domini Regis mihi direct tibi mando quod non omittas propter aliquam libertatem in balliva mea quin eam ingrediaris & venire facias coram Justiciariis Domini Regis ad pacem in Commitatu predicto conservandam necnon ad diversa felonias & transgressiones & alia malefacta in dicto Comitatu perpetrata audendum & terminandum assign. die Lunæ tertio die Octobris, *proximo futuro apud Villam de* H. *in Comitatu prædicto separales personas script. ad faciendum ea quæ tunc & ibidem ex parte Domini Regis eis injungentur*; Publicè etiàm proclamari facias per totam ballivam tuam quod omnes illi qui sequi voluerint versus prisonar. in Gaola Domini Regis pro Comitatu prædicto existentes qui ad Generalem Sessionem pacis pro Com. præd. tent. præfat. die deliberari debent; quod tunc sint ibi versus eos prout justum fuerit prosecuturum. *Scire facias etiam omnibus Coronatoribus, Seneschallis, Dominorum, & Magnatum, Constabula-*

bulariis, Subconſtabulariis, & Ballivis Libertatum infra Hundreda & Libertates predicti. quod ſint tunc ibi cum rotulis, recordis, indictamentis, & aliis memorandis ſuis ad faciendum & perimplendum ea quæ ad ſeparalia officia ſua pertinent; Et quod tuipſe ſis ad tunc ibidem ad faciendum omnia ea quæ ad officium tuum pertinent; Et habeas ibi nomina predicti. Coronatorum, Seneſchallorum, Conſtabulariorum, Subconſtabulariorum, & Ballivorum Libertatum una cum hoc præcepto ſub periculo incumbente. Dat. ſub ſigillo officii mei decimo die Septembris, *Anno Regni*, &c. *Annoque Domini* 1667.

E. C. *Atm. Vic.*

Subſcriptio.

Tibi etiam mando quod capias J. D. *de* Y. W. R. *de* C. *&* T. S. *de* R. *Ita quod corpora eorum habeas coram Juſticiariis predicti ad diem & locum predicti ad reſpondendum dicto Domino Regi de quibuſdam tranſgreſſionibus & contemptis unde indictati exiſtunt, & hoc nullatenus omittas ſub pœna incumbente quam incurſurus es ſi in executione præmiſſorum defeceris.* Tibi

Tibi etiam mando quod venire faci-
as has perſonas in Schedula huic
warrantiæ annexa, nominatas; Ita
quod ſint ad diem & locum predict.
ad faciendum ea quæ eis tunc & ibi-
dem injungentur.

Kitchin 271.

per eundem Vic,

The Sheriff may write theſe two laſt Subſcriptions under the former Warrant, and ſign the ſame with his hand and the Seal of his Office; and he may file a *Schedule* to the back-ſide of this Warrant, wherein he may ſet down the names and dwelling places of ſuch perſons as the Bayliff ſhall warn to ſerve upon the Grand Inqueſt by themſelves, and upon the particular Juries for Hundreds and Liberties by themſelves, and upon the Petty Jury for the Tryals of Priſoners by themſelves; Or elſe if there be ſpace he may ſet them down under the end of the Warrant; And he ought to keep a note of them, that he may be able to ſhew to the Court upon occaſion whom he had appointed to be returned for that ſervice if they had come, and if the fault fall out to be in the Bailiff, then he ſhall be puniſh'd, and the Sheriff excuſed.

No

Stat. 11. H. 4. ca. 9. No persons (except the sworn and known Officers of the Sheriff, or other Officers to whom the same appertaineth) may nominate to the Sheriff any Jurors to be returned upon Indictments; And if any Indictment be taken to the contrary, the same shall be void. *Dal.* Office of Sheriffs. *fo.* 119.

Note, That the Sheriff shall impannel and return the most sufficient Free-holders in the County (who be not assigned Commissioners by the Commission of the Peace) to serve upon the General Jury for the Body of the County, and he shall impannel *Petit* Constables (if there be not others sufficient to serve) to serve upon the particular Juryes for Hundreds and Liberties; And every such Inquest must contain twelve in number at the least, but the usual course is to swear an odd man, as seventeen, nineteen, or one and twenty, to the end if they should dissent in opinion somewhat equally, yet there should be always one to cast the ballance; and if twelve of them agree, the dissent of the residue cannot hinder the presentment. *Lambert* 400.

When the Writ of Summons is return-

turnable, and the Juſtices of Peace be convened together to hold the Seſſions, the Under-Sheriff attended with his Bayliffs, with their white wands in their hands, ſhall uſher them from the place of their convention to the Bench; And when the Court is ſet, the Cryer muſt make three proclamations, and the Clerk of the Peace ſhall cauſe him to ſay after him;

All manner of Perſons who were ſummoned to appear here this day, and have any thing here to do, before His Majeſtie's Juſtices of the Peace at this Court of General Quarter Seſſions holden for this County of H. *draw near and give your attendance, and you ſhall be heard.*

Then the Cryer ſhall make proclamation again, and the Clerk of the Peace ſhall cauſe him to ſay after him.

His Majeſtie's Juſtices of Peace do ſtraitly charge and command all manner of Perſons to keep ſilence whilſt His Majeſtie's Commiſſion of the Peace is openly read upon pain of Impriſonment. God ſave the King.

Here the Clerk of the Peace reads the Commiſſion.

When he has read the Commiſſion, he ſhall cauſe the Cryer to make one proclamation, and ſay;

All manner of Perſons that will ſue or complain, or have any thing here to do at this Court of General Quarter-Seſſions holden here this day, before His Majeſtie's Juſtices of the Peace for this County of H. *draw near and give your attendance, and you ſhall be heard.*

Then the Clerk of the Peace ſhall cauſe the Cryer to make another proclamation, and to ſay,

Sheriff of this County of H. *return thy Precepts and other Proceſs to you directed returnable here this day, that the Court may proceed thereon.*

Then ſhall the Sheriff deliver into Court, his Calendar and Precept for ſummoning the Seſſions with a due return indorſed on the back-ſide of the precept in this manner;

Executio iſtius Brevis patet in quibuſdam Schedulis huic annexat.

E. C. Vicecom.

To

To this is annexed divers pannels fairly ingroſſed in parchment, one containing the names of the Coroners, Stewards of Leets and Liberties, Conſtables, petty-Conſtables, and Bayliffs of Liberties; another pannel containing the names of the Grand Inqueſt; other pannels containing the names of the particular Jurors for Hundreds and Liberties: and one other pannel containing the names of the Jury for Tryal of iſſues in caſe of Felonies and other offences under Felony; with the Calendar containing the names of all the priſoners in the Gaol charged with petty Larceny or any other crimes under the degree of Grand Larceny, with the name of the Fact for which they be committed.

When the Sheriff has delivered the ſame into Court, the Clerk of the Peace, ſhall cauſe the Cryer to make proclamation, and to ſay,

All Coroners, Stewards of Leets and Liberties, Conſtables, Petty-Conſtables and Bayliffs, within this County of H. *anſwer to your Names every man at the firſt Call upon pain and peril that ſhall fall thereon.*

Then the Clerk of the Peace muſt name them as they be returned, in the Calendar, and the Cryer muſt call them.

When the Coroners have been called, then the Cryer muſt call the Stewards of Leets and Liberties, as they be returned in the Calendar; then all chief Conſtables, and petty Conſtables ſhall be called, as they be returned in the Calendar; and note, as the chief Conſtables, and petty Conſtables do appear, the Clerk of the Peace muſt ask them for their preſentments, upon the exceſſes of Craftſmen, Labourers and Servants, *Fitzherb. Juſt. 6.* Upon which they forthwith deliver the ſame into Court fairly written, and upon the receipt thereof, he ſweareth them upon a *Voire dire*, whether they be true, this done, he cauſeth them immediately to be entered and recorded in the Seſſions, in the mean while he cauſeth the Cryer to call all the Bayliffs of Hundreds and Liberties.

Note, that againſt the names of them that do appear, the Clerk of the Peace ſets a mark (u) and if the Juſtices ſet a Fine upon the Defaulters

faulters, the ſame is ſet down in the Margin.

When this is done, the Clerk of the Peace, ſhall cauſe the Cryer to make proclamation, and ſay,

All Juſtices of the Peace, Coroners, Stewards of Leets and Liberties, and all other that have taken any Inquiſitions or Recognizances, whereby you have let any Perſons to bail, or any examinations, or other thing ſince the laſt Seſſions, put in your Records thereof that the Court may proceed thereon.

Then muſt the Cryer make proclamation, and ſay;

You Good Men that be impanneled to enquire for our Soveraign Lord the King, and the Body of this County of H. *anſwer to your Names every Man at the firſt Call upon pain and peril that ſhall fall thereon.*

Then the Clerk of the Peace muſt name the Grand Jury as they be return'd in the pannel by the Sheriff, and the Cryer muſt call them in order, and if there be a default, then he muſt ſay;

You good men that made default, answer to your names upon pain of ten pounds.

And if ſtill there be a default, the Cryer ſhall call the ſeveral Bayliffs that ſummon'd them, and upon their appearance, the Clerk of the Peace ſhall adminiſter an Oath unto them, Whether? When? and Where? they ſummon'd the ſeveral parties; And no Jury-man's iſſues making default ſhall be ſaved but by ſpecial order of the Court grounded upon ſome apparent diſ-ability in body, or ſome other lawful impediment proved upon the Oath of ſome credible witneſs, or by the affirmation of ſome Juſtice of Peace upon his own knowledge.

If the Jury be not full or the Court diſlike any of the Names returned in the pannel, and command the Sheriff to add, alter, or diminiſh any of them, he ſhall forthwith do the ſame, and put in others according to the direction of the Juſtices, which being done, the Clerk of the Peace ſhall direct the Cryer to call the parties newly returned in this manner.

Stat. 3 H. 8. ca. 12.

You good men that be newly returned according to the form of the Statute

Statute, answer to your Names at the first call, upon pain and peril that shall fall thereon.

When the Grand Jury is full, then the Clerk of the Peace shall call the particular Juries for Hundreds and Liberties in the same manner as is directed for the Grand Jury; and when they be all full, he shall first swear the Great Inquest in this manner, the Fore-man laying his right hand on the Book;

You as Fore-man of this Grand Inquest, for the Body of this County of H. *shall diligently enquire, and true presentment make of all such matters and things as shall be given to you in charge touching this present service; the Counsel of our Soveraign Lord the King, your Fellows, and your own, you shall keep secret; you shall not present any Person for Hatred or Malice, nor conceal any thing of truth for Fear, Favour or Affection, Reward, Gain or Hope; but you shall in all things to the best of your Skill and knowledge, present the truth, the whole truth, and nothing but the truth; so help you God.*

When the Fore-man is thus sworn,

the reſt ſhall lay their right hands on the Book by three at a time, and be ſworn in this manner.

The ſame Oath which your Fore-man hath taken on his behalf, you and every of you, ſhall well and truly obſerve and keep on your parts, ſo help you God.

When all the Grand Jury be thus ſworn, then the Clerk of the Peace ſhall direct the Cryer to call the ſeveral particular Juries for Hundreds and Liberties, who upon their full appearance ſhall be ſworn in the ſame manner as the Grand Jury were, with this only difference in the Oath of the Fore-man.

You as Fore-man of this Inqueſt, for the Hundred of O. *or the Liberty of* D. *ſhall diligently enquire, &c. as in the former Oath.*

As all the Juries be ſworn in this manner, the Clerk of the Peace doth name them, and the Cryer count them, concluding after the laſt name of every Jury; Good men and true, ſtand together and hear your charge.

All this being done, the Clerk of the Peace muſt cauſe the Cryer to make proclamation and ſay;

His

His Majeſties Juſtices of the Peace do ſtraitly charge and command all manner of Perſons to keep ſilence whilſt the charge is giving, upon pain of impriſonment.

Note, that the commiſſion of the Peace directs that all the proceedings in the Seſſions be *ſecundum Legem & conſuetudinem Angliæ*, and to this end ſome Statutes require, that men learned in the Law ſhould be put into the commiſſion; and the *Cuſtos Rotulorum*, being a perſon generally choſen out of the Nobility for the honour of the Bench, and the greatneſs of his Truſt, is impowered under his hand in writing, or by word of mouth to aſſign ſome outter Barriſter of one of the four Inns of court, to give the charge, to declare the Rules, to direct the Orders, and to pronounce the Judgments of the Court according to the Laws and cuſtoms of the Realm, and then ſuch perſon ſhall give the charge. *Stat.* 18. Ed. 3. ca. 2. 34 Ed. 3. ca. 1 13 R. 2. ca. *Stat.* 37 8. ca. 2.

During the time of giving the charge the Clerk of the Peace doth fairly write the names of all the ſeveral Juries, in ſeveral papers, and after the charge is ended, doth deliver them to the Foremen of every Jury, to the end that they may

may know and keep their Fellows together.

Then the Clerk of the Peace ſhall diſtinctly read with an audible voice in open Court, all ſuch Statutes that be now in force, and appointed to be publickly read or proclaimed at the General Quarter-Seſſions, as the Statutes of the 4 *H.* 7. *ca.* 12. 33 *H.* 8. *ca.* 9. *&c.*

Note, that in *Eaſter* Seſſions, the wages of Servants and Labourers ſhall be aſſeſſed in open Court, and the ſame ſhall be forthwith engroſſed in parchment, and ſigned under the Hands and Seals of the Juſtices, and delivered to the Sheriff to proclaim the ſame in ſo many places of the County, as to the Juſtices ſhall ſeem convenient, *Stat.* 5 *Eliz. ca.* 4. 1 *Ja. ca.* 6.

Then the prices of Soap, Ale and Beer, ſhall be ſet and recorded, *Stat.* 23 *H.* 8. *ca.* 4.

After that every pariſh ſhall be rated towards the relief of Hoſpitals, *Kings-Bench*, and *Marſhalſea*, and Alms-houſes in the County, *Stat.* 43 *Eliz. ca.* 2. Alſo towards the relief of poor Souldiers and Mariners, *&c. Stat.* 43 *Eliz. ca.* 3. Alſo towards the relief of priſoners in the com-

common Gaol. *Stat.* 14 *Eliz. ca.* 5.

In the Quarter-Seſſions held in the week after the Feaſt of St. *Michael*, the Court doth appoint Searchers for Braſs, and Pewter, *Stat.* 19. *H.* 7. *ca.* 6. Alſo doth nominate two Juſtices of the Peace to take a view of the Sheriff's books *Stat.* 11 *H.* 7. *ca.* 15. And doth appoint Searchers of Tiles, *Stat.* 17 *Ed.* 4. *ca.* 4.

When all this be done, the Clerk of the Peace ſhall direct the Cryer to make proclamation and ſay;

All manner of Perſons who have any Bills of Indictment to prefer to this Grand Inqueſt, put them into the Court forthwith that His Majeſtie's Juſtices of the Peace may peruſe them and proceed thereon.

Then the Clerk of the Peace cauſeth the Cryer to call the parties who are bound by their Recognizances to proſecute; that they may get their Bills drawn againſt the priſoners and malefactors, and when they be drawn and engroſſed fairly in parchment, the Clerk of the Peace ſhall cauſe the witneſſes to lay their right hands upon the Book and to ſwear them in open Court after this manner.

The

The evidence which you ſhall give to the Grand Inqueſt againſt J. S. *upon this Bill, ſhall be the truth, the whole truth, and nothing but the truth ſo help you God.*

When this is done the Clerk of the Peace ſendeth the Bill with the Witneſſes by a Bayliff to give their Evidence upon the ſame to the Grand Inqueſt.

Note, that the Clerk of the Peace or other Miniſter of the Court does uſually draw and ingroſs the Bills of Indictments, and the Juſtices of the Peace ought *ex officio*, to take care that they have ſufficient matter and form in them, but Mr. *Lambert* adviſes, that they do rather peruſe the Bill, after the Evidence ſhall be thereupon given to the Jury, than to put their pens into them before the Inqueſt ſhall be informed. *Lambert Juſtice of Peace* 480.

If the Forenoon be ſpent, the Court will command the Cryer to make proclamation, and to adjourn in this manner;

All manner of Perſons that have any thing more to do at this preſent Seſſions of the Peace, holden before

His

His Majeſtie's Juſtices of the Peace for this County of Hertford, *may take their eaſe at preſent, and keep their hour again at two of the Clock in the Afternoon, God ſave the King.*

Then the Court riſing, the Under-Sheriff and his Bayliffs, with their white wands in their hands, do uſher the Juſtices from the Court, to the place where they dine; and in the mean while the Clerk of the Peace files all his Recognizances delivered to him in Court, ſuch as be to proſecute againſt offenders upon one File, and ſuch as are for the appearance of offenders, called Bails upon another File, and all Examinations taken before Juſtices of the Peace, and all other papers concerning the ſame upon a third File; and then maketh a little note for the more ready finding of them by Figures.

When the Court is ſet in the Afternoon, the Cryer doth make proclamation and ſay,

All manner of Perſons that were adjourned over to this Hour, and have any thing more to do at this Court of General Quarter-Seſſions, holden before His Majeſtie's Juſtices of the Peace,

Peace, for this County of H. *draw near, and give your attendance. God ſave the King.*

Then the Court ſendeth a Bayliff for the Grand Jury, who when they appear, the Clerk of the Peace calleth them by their names, and all anſwering thereto, he demands of them; if they be all agreed on any Bills; if they anſwer yea; then he ſpeaks to deliver the ſame into Court, which they immediately do by the hands of their Fore-man; and upon the receipt of them, the Clerk of the Peace reads them over in open Court, and then doth ſay to them.

You are content the Court ſhall amend Form, and falſe Latine, altering no matter of ſubſtance in thoſe Bills, which you have found to be true.

Then the Grand Jury ſay, yea; and ſo they go together again.

Note, that when the grand Jury be agreed upon any Bills of Indictment, they indorſe on the back-ſide of thoſe Indictments which they find true, *Billa vera*; And upon the back-ſide of thoſe Bills which they find falſe, *Ignoramus*.

Then doth the Clerk of the Peace file up

up the Bills which are found true upon a File, with the Calendar and precept for ſummoning the Seſſions formerly returned to the Sheriff; that being orderly done, and the Gaoler having brought the priſoners into the Hall, the Clerk of the Peace directeth the Cryer to make proclamation, and ſay after him, thus;

His Majeſtie's Juſtices of the Peace, do ſtraitly charge and command all manner of Perſons to keep ſilence, for now they will proceed upon the Arraignment and Tryal of the Priſoners, and that all Perſons that have any Evidence to give againſt any of the Priſoners at the Bar, draw near and give their attendance upon pain of forfeiting their Recognizance.

Note, that if any Grand Felons be committed to the Gaol to be delivered at the Quarter-Seſſions to be held for the County of *H.* then the Court doth proceed to the Tryal of them, after the ſame manner and form as before the Juſtices of *Oyer* and *Terminer*, and general Gaol-delivery; but thoſe priſoners being generally committed, to be tryed at the general Gaol-delivery; this Court doth more uſually begin with petty Larcenies, there-

therefore the form of trying a grand Larceny is here omitted; and the Clerk of the Peace begins with his first Indictment upon the File in order, and bids the Gaoler, set the prisoner named in that Indictment to the Bar, but if he be bail'd and not in the Gaol, the Clerk of the Peace causeth the Cryer to call him in this manner;

A. B. *come forth, save thee, and thy Bail, or else thou forfeitest thy Recognizance.*

If he appear not, then the Clerk of the Peace calls the Sureties in this manner:

C. D. *and* E. F. *with their Additions, bring forth* A. B. *whom you undertook to have here this day, or either of you lose* 20 l. *and he himself* 40 l. *or otherwise as it is in the Recognizance.*

If he appears not, then the Clerk of the Peace passeth by that Indictment, and calleth to the Gaoler to set forth the prisoner named in the next Indictment, and when he is at the Bar, the Clerk of the Peace saith to him as followeth.

J. Stiles *hold up thy Hand. Thou stand'st*

ſtandeſt here indicted by the name of J. S. *of*, &c. *for that thou*, &c. *as in the Indictment*, &c. *and at the cloſe of the Indictment he farther ſaith What ſayeſt Thou? art Thou guilty of this Felony whereof thou ſtandeſt Indicted, or not guilty?*

If the priſoner ſay guilty, then the Clerk of the Peace doth write over his name in the Indictment, *Cogn.* and ſo he is ſet by until the time come of giving Judgement.

But if he ſay Not guilty; then the Clerk of the Peace doth ask him;

How wilt thou be tryed?

If he ſay by God and the Countrey, then the Clerk of the Peace doth ſay,

God ſend thee a good deliverance.

And then writes over his name in the Indictment *Po. ſe.* and ſo proceeds to the next, until there be as many arraigned as may well be charged upon the petty Jury at once.

If any priſoner upon his arraignment doth refuſe to be tryed by his Country, and yet plead not guilty, then the Clerk of the Peace doth write over his name in the Indictment *Stat. mute.* and he muſt be ſet by until the time of giving Judge-

ment, unleſs in the mean time he puts himſelf upon the Country.

Then doth the Sheriff impannel and return the petty Jury, which being done, the Clerk of the Peace calls them in order thus.

You good men that be impannelled to enquire between our Soveraign Lord the King and the Priſoners at the Bar, anſwer to your names every man at the firſt call upon pain and peril that ſhall fall thereon.

Then he calls them in order every man by his name, and when there is a full appearance, then doth the Clerk ſay to the Gaoler,

Set J. S. *and* J. O. *to the Bar.*

Then he ſaith to the priſoners.

Theſe good men which were laſt called, and do here appear are thoſe which ſhall paſs between our Soveraign Lord the King and you, upon your ſeveral Tryals; If therefore you or either of you, will challenge them, or any of them, you muſt challenge them as they come to the Book before they be ſworn, and you ſhall be heard.

Then doth the Clerk of the Peace cauſe

cauſe the Cryer to make Proclamation and ſay;

If any Perſon can inform His Majeſtie's Juſtices of the Peace, the King's Serjeant, or the King's Attorney, or this Inqueſt, of any Felony or other miſdemeanour committed or done by the Priſoners at the Bar or either of them, let them come forth and they ſhall be heard, the Priſoners ſtand at the Bar upon their deliverance.

Then the Clerk of the Peace calls over the Jury and charging every of them ſeverally by his name, To look upon the Priſoner, and to lay his right hand upon the Book ſweareth him as followeth.

You ſhall well and truly try and true deliverance make, between our Soveraign Lord the King and the Priſoners at the Bar whom you have in charge, according to your evidence, ſo help you God.

When they be all thus ſeverally ſworn, one after another, then the Clerk of the Peace bids the Cryer count them as he readeth their names; and this being done, he asketh if they be all ſworn; if

they ſay yea, then he bids them divide themſelves, ſix on one ſide, and ſix on the other.

Then the Clerk of the Peace calleth the priſoner named in the firſt Indictment upon the file as he hath pleaded in order to the Bar, and bids him hold up his hand, and then ſaith to the Jury;

Look upon the Priſoner you that be ſworn, and hearken to his cauſe.

You ſhall underſtand that he is indicted here by the name of, &c. (*as in the Indictment*) *for that he*, &c. *and in the cloſe of the Indictment he further ſaith*;

Upon this Indictment he hath been arraigned; *upon his arraignment he hath pleaded Not guilty, and for his Tryal hath put himſelf upon God and the Country, which Country you are*; *ſo that your charge is to enquire whether he be guilty of this Felony whereof he ſtands indicted, or not guilty? If you find him guilty, you ſhall enquire what Goods and Chattels he had at the time of the Felony committed, or at any time ſince*; *If you find him not guilty, then ſhall you enquire if he did fly for it or no*; *If you*

you ſhall find that he did fly for the ſame, then you ſhall enquire what Goods and Chattels he had at the time when he did fly for the ſame, or at any time ſince, If you find him not guilty, nor that he did fly for the ſame, then you muſt ſay ſo, and no more, and hear your evidence.

Then ſhall the Clerk of the Peace direct the Cryer to call the witneſſes as they be ſubſcribed to the Indictment.

When that is done, and the witneſſes for the King do appear, the Clerk of the Peace cauſeth them to lay their right hands upon the book, and ſweareth them in this manner;

The evidence that you and every of you ſhall give to this Inqueſt againſt J. S. *Priſoner at the Bar ſhall be the Truth, the whole Truth, and nothing but the Truth, ſo help you God.*

When the witneſſes for the King have given their evidence, then if the priſoner deſires that any witneſſes ſhould be heard for him, they muſt be called alſo, but they ſhall ſpeak without Oath unleſs the Fact be under Felony, or that ſome *Statute* does allow an Oath in that caſe; and then they proceed in like manner to

the next prisoner as the Indictments are filed in order, with this difference only; when the Clerk of the Peace hath read over the Indictment as afore directed, he saith at the end thereof as followeth;

Upon this Indictment he hath been arraigned; upon his arraignment he hath pleaded not guilty, and for his Tryal hath put himself upon God and his Country, which Country you are, so that your charge is to enquire whether he be guilty of this Felony whereof he stands indicted, or not guilty; and further to enquire of him as you had in charge to enquire of the first Prisoner, and hear your evidence.

Then the Clerk of the Peace calls the witnesses upon that cause, & swears them as aforesaid; and when they be heard, he proceeds to the next, and so one after another, until the Jury be fully charged.

In the mean time, as the prisoners be upon their several Tryals, the Clerk of the Peace looketh out the Examinations of every prisoner, as his cause is in hearing, and if it be evidence for the King he readeth it to the Jury.

Also

Alſo he maketh ready a note of the Jurors names, and ſubſcribeth the Priſoners names, and their offences, as they ſtand charged withal, underneath the ſame, and when the Jury is ready to go from the Bar, he delivereth it to them for their direction, and help of their memory to know whom they have in charge.

When the Jury is gone from the Bar, if there be not Indictments ſufficient to charge another Jury with, the Court doth ſend to the Grand Jury to bring in ſome more bills if they are ready, and in the mean while, or at any other time when the Court is at leiſure.

When the petty Jury be agreed, and be returned to the Court to give their Verdict, the Clerk of the Peace firſt calls them by their names, and asketh them,

If they be all agreed of their Verdict? and who ſhall ſay for them?

Then the Clerk of the Peace directs the Gaoler to ſet the priſoner to the Bar, which done, he calls to him, and ſaith,

Hold up thy hand.

And then ſaith to the Jury;

Look upon the Priſoner you that be ſworn, what ſay you, is he guilty of

the Felony whereof he ſtands indicted or not guilty?

If they ſay guilty; then the Clerk of the Peace ſaith;

What Goods or Chattels had he at the time of the Felonie committed, or at any time ſince?

If the Jury find any; the ſame muſt be recorded, but their common anſwer is,

None to our knowledge.

But if they ſay;

Not guilty;

Then the Clerk of the Peace asketh them,

If he did fly for the ſame or no?

If the Jury find, that he did fly for it; it muſt be recorded; and then the Clerk of the Peace muſt ask them again,

What Goods and Chattels had he at the time of ſuch flight or at any time ſince?

But their common anſwer is,

None to our knowledge.

Then the Clerk of the Peace records the Verdict, which done he proceedeth to every particular priſoner, which the Jury hath in charge, writing after the words *Po. ſe. cul.* or *non cul*, as the Verdict is.

Then

Then the Clerk of the Peace doth ſay to the Jury;

Hearken to your Verdict as the Court hath recorded it.

And then he repeateth it in this manner:

You ſay that John *at* Stile *is guilty of the Felony whereof he ſtands indicted, and that he hath no Goods or Chattels, and ſo you ſay All:*

Or,

That John Oakes *is not guilty of the Felony whereof he ſtands indicted, nor that he did fly for the ſame, and ſo you ſay All.*

Proceſſes.

When the petty Larcenyes, and other grand offences be tryed, then the Proceſſes ſhall be called in the next place, and they that do appear ſhall be diſpatched.

When any perſons be diſcharged upon their appearance upon Proceſs, the Clerk of the Peace ſhall forthwith put ſuch perſons out of proceſs, and enter their names in a book which he ſhall have in Court for that purpoſe, and ſhew the ſame to the Court before another proceſs be called.

When

Traverſes. When all the proceſſes be diſcharged, then Traverſes ſhall follow next in courſe.

Every Indictment ſhall be fairly engroſſed in parchment, and if any parties do appear that ſtand indicted of Treſpaſſes, Maihems, Batteries, Riots, Converſions, Depopulations, decays of Highways and Bridges or the like offences; the party indicted doth not hold up his hand at the Bar as in the caſe of Felony; but the Clerk of the Peace ſhall call the party indicted and when he appears in Court, the Clerk of the Peace ſhall ſay unto him,

Thou ſtandeſt here indicted by the name of A. B. *for that thou*, &c. *and ſo read the Indictment openly and diſtinctly in Engliſh; and then ask him what ſayeſt thou, art thou guilty of this Treſpaſs, whereof thou ſtandeſt indicted, or not guilty?*

If he ſaith, not guilty, and traverſeth his Indictment according to the uſual courſe, then he ſhall enter into Recognizance to proſecute his Traverſe at the next Quarter-Seſſions, and the Recognizance ſhall be taken after this manner;

A. B. *Thou doeſt acknowledge thy ſelf*

ſelf indebted unto our Soveraign Lord the King, in the ſum of 20 l. *To be levied of thy Lands & Tenements of thy Goods and Chattels, and this is upon condition that you ſhall appear at the next general Quarter-Seſſions of the Peace, to be holden before His Majeſtie's Juſtices of the Peace for this County, and ſhall then and there proſecute your Traverſe which is taken, with effect.*

Note, that the party indicted may by his Counſel before plea pleaded, take exceptions to the inſufficiency of his Indictment and if the Court ſhall quaſh the ſame for errour, the Clerk of the Peace ought forthwith to indorſe the cauſe of Errour, wherefore the Indictment was quaſhed on the back-ſide thereof; but if the Court ſhall ſee cauſe when the Indictment is quaſhed, they may give order that a new Indictment be drawn againſt the offender.

Note, that no perſon may aſſign errours upon Indictments, unleſs he appear in proper perſon, and put in bail, *Cro.* 2. *Rep.* 616.

Note, alſo that no Informations or Indictments for Nuſances ſhall be quaſhed

or

or discharged, unless two Justices of the Peace do certifie to the Court upon their own view, either by certificate under their hands or in person, that the Nusance is removed. *Leyton's* Case, *Cro.* 3. *Rep.* 422.

If any party thus charged upon In- *Lamb.* 539. dictment, will demur to the Indictment, the Clerk of the Peace must record the Demurrer; or if he plead a pardon, he must record the plea; or if he will offer his Traverse to the Indictment, the Court must allow the same, but if he be obstinate and refuse to plead, Judgement shall be given against him by *Nibil dicit.*

Note, that if any person thus indicted shall appear, *gratis*, he may pray an Imparlance to the next Sessions, and the Court must allow the same.

If the party indicted will plead in Justification, any matter of Record that is before other Justices, the Court shall give him Day to bring it in, *Lambert* 539. 540.

When all this is done, then the Clerk of the Peace doth call the parties bound by Recognizances taken at the last Sessions to prosecute their Traverses at this pre-

preſent Seſſions; and if any of the parties do not appear then the Cryer ſhall call him thrice and ſay;

A. B. *come forth, and proſecute thy Traverſe with effect, elſe thou forfeiteſt thy Recognizance.*

If the party indicted doth not appear then the Clerk of the Peace paſſeth by that Indictment, and proceedeth to the next, but if he doth appear, then the Clerk of the Peace doth cauſe the Cryer to call the proſecutor thrice in this manner.

C. D. *come forth and proſecute thy Indictment againſt* A. B. *and you ſhall be heard.*

Note, that if the proſecutor do not then appear to proſecute his Indictment, and Affidavit be made in open Court that the party indicted did give him timely notice of the Tryal, the Jury ſhall be ſworn, and the Clerk of the Peace ſhall charge them with the Indictment, concluding thus:

That to this Indictment he has pleaded not guilty, and for his Tryal hath put himſelf upon his Country, which Country are you, and none appearing to prove the Fact againſt him,

you

unleſs you do know upon your own knowledge, that A. B. *is guilty of the matter of Fact charged in that Indictment, you ſhall find him not guilty.*

And upon ſuch Verdict the Court doth diſcharge him; but if when the proſecutor be called, he ſhall appear, and ſhew good cauſe why he cannot proſecute that Seſſions; or if any credible perſon ſhall appear in the behalf of the proſecutor, and ſhall there make Affidavit that the proſecutor is very lame, or ſick, inſomuch that he cannot come to the Court without danger of his life, or ſhew any other lawful excuſe, the Traverſe ſhall be reſpited till the next Seſſions.

Then the Clerk of the Peace ſhall proceed to the next Indictment and call the party therein indicted, and when he appears, and the proſecutor is ready, the Sheriff having impannelled, and returned the Jury for Tryal of the Traverſe, the Clerk of the Peace ſhall cauſe the Cryer to call them in this wiſe;

You Good men that be impannelled to enquire and try this iſſue of Traverſe, between our Soveraign Lord the King, and A. B. *anſwer to your names at the firſt call upon pain and peril*

peril that ſhall fall thereon.

Then he calls them in order every man by his name; and if there be a default, then he ſhall ſay;

You Good Men that made default anſwer to your Names upon pain of 10 *l.*

When the Jury be full the Clerk of the Peace ſhall ſay,

Parties look to your Challenges.

Note, that when the Fact charged in the Indictment is Treſpaſs, Ryot, or any other miſdemeanour under the degree of Felony, no peremptory Challenge ſhall be allowed.

Then the Clerk of the Peace ſhall ſwear them every one in this manner, every perſon one after the other ſingly by himſelf, laying his right hand on the Book;

You ſhall well and truly try this iſſue of Traverſe, between our Soveraign Lord the King, and A. B. *whom you have in charge according to your evidence, ſo help you God.*

After that all the Jury be thus ſworn, the Clerk of the Peace doth read their names, and the Cryer counts them, which being done, the Clerk asketh them; If they

they be all ſworn, and then bids them ſtand together and hear their charge.

Then muſt the Clerk of the Peace direct the Cryer to make proclamation in this manner:

If any Perſon can inform His Majeſtie's Juſtices of Peace, or this Inqueſt, of any Treſpaſſes, Riots, Routs, or other miſdemeanors acted or committed by A. B. *come forth, and they ſhall be heard.*

Then the Clerk of the Peace doth read the Indictment, and charge the Jury as the Indictment is, what they are to enquire, *&c.*

Then is the Indictment opened and managed by Counſel, if there be any; and the witneſſes ſhall be called to prove the matter of Fact, charged in the Indictment againſt the offender; but if upon the appearance of any of the witneſſes, the adverſe party ſhall challenge any of them before they be ſworn, and prove the cauſe of challenge upon oath, the witneſs ſhall be ſet aſide; but if the cauſe of challenge cannot be poſitively proved upon oath; but 'tis preſumed the ſame is true, then he may pray that ſuch perſon ſo produced for a witneſs, may be examined

amined upon a *Voire Dire*, and then the Clerk of the Peace ſhall cauſe him to lay his right hand on the Book, and ſhall ſwear them in this manner;

You ſhall true anſwer make to all ſuch Queſtions as ſhall be demanded of you, ſo help you God.

And if the cauſe of challenge be thereupon confeſt, and allowed by the Court, he ſhall be ſet aſide, and another witneſs ſhall be called; and if he be not challenged, he ſhall lay his right hand on the Book, and be ſworn by the Clerk of the Peace after this manner;

The evidence which you ſhall give to this Inqueſt againſt A. B. *ſhall be the Truth, the whole Truth, and nothing but the Truth, ſo help you God.*

In examination of witneſſes upon evidence, the Counſel for the party indicted ſhall not interrupt the witneſſes in their evidence, on the behalf of the King; neither ſhall the Counſel for the proſecutor, be permitted to diſturb the witneſſes in their evidence, on the behalf of the party indicted; but when the Counſel of either ſide hath done with any of his witneſſes, the Counſel of the adverſe party, may pray leave of the

Court to croſs examine him.

No witneſſes may be examined in any Tryal, nor Counſel be permitted to ſpeak any thing ſavouring of ſcandal, either to the proſecutor or party indicted, except it be matter material to the iſſue. *Cro.* 2. *Rep. fo.* 90. 91. *Brook and Mountagne* Recorder of *London.*

In all Tryals, the Counſel for the proſecutor ſhall conclude the evidence, and the Judge of the Court ſhall give the directions to the Jury.

Note, that if any matter in Law ſhall happen to ariſe upon the evidence, the Court will not allow the party indicted to demur, but direct the Jury to find a ſpecial Verdict, *Lamb.* 539.

In the mean time doth the Clerk of the Peace file the *Venire*, and the pannel with the Indictment.

After the Jury hath heard their evidence, they depart to ſome convenient place to agree upon their Verdict with a Bailiff, to whom the Clerk of the Peace ſhall adminiſter this Oath;

You ſhall well and truly keep every perſon, ſworn of this Inqueſt, together in ſome private and convenient Room, without Meat, Drink, Candle

or

or Lodging, and you ſhall not ſuffer any perſon whatſoever, to ſpeak to them, or any of them, neither ſhall you your ſelf ſpeak to them, until ſuch time as they have delivered up their Verdict, unleſs it be to ask them, whether they be agreed of their Verdict, ſo help you God.

Whilſt the Jury be in conſultation upon their Verdict, the Clerk of the Peace doth uſually take a note of all the Recuſants, preſented by the perticular Juries for Hundreds, and Liberties out of their preſentments, delivered into Court, and make them into bills of Indictments in form of Law, and ſend both it and the preſentments to the Grand Inqueſt, that they may return the ſame Bills together with their preſentments of other grievances, and having ſo done, they be uſually diſcharged, unleſs extraordinary ſervice prevent the ſame.

If any bills of Indictments againſt Recuſants be found, then doth the Clerk of the Peace cauſe the Cryer to make proclamation; and then reading the names, and the Cryer repeating them with their Additions, as they are in the Indictment, he concludes after the laſt name thus;

Being indicted at these Sessions for not coming to Church, by the space of one Month or more, or for not receiving the Sacrament of the Lords Supper by the space of one year or more, as is expressed in the Indictment; Yield your Bodies to the Sheriff of this County, so that he may have the same before His Majestie's Justices of the Peace, at the next general Quarter-Sessions, to be holden for this County, or else you, and every of you, shall be convicted of Recusancy according to the form of the Statute in that case made and provided.

3 Ja. ca. 4.

When the petty Jury be agreed of their Verdict, and are returned into Court to deliver up the same, the Clerk of the Peace doth call them severally by their names, and ask them, If they be all agreed of their Verdict? And they say, yea; then he saith, Who shall say for you, and they answer, the Foreman; then he shall say to the Jury,

What say you, is A. B. *guilty of the Trespass, or Riot, or Rout, &c. whereof he stands indicted, or not guilty?*

If

If they ſay, guilty: or, if they ſay, not guilty; then the Clerk of the Peace doth ſay to the Jury;

Hearken to your Verdict as the Court hath recorded it.

And then he repeateth it in this manner;

You ſay that A. B. *is guilty of the Riot, Treſpaſs,* &c. *whereof he ſtands indicted, and ſo you ſay All.*

Or,

That A. B. *is not guilty of the Riot, Treſpaſs,* &c. *whereof he ſtands indicted, and ſo you ſay All.*

When all the Traverſes be heard, the Clerk of the Peace doth call the parties bound by Recognizances, to appear at the Seſſions, and if they appear not, then he doth cauſe the Cryer to call them in this wiſe. Recognizances.

A. B. *come forth, or elſe thou forfeiteſt thy Recognizance.*

And if he appear not, then call the Sureties in ſuch manner, as is before directed to call Sureties for perſons that go upon Bail.

Where a perſon is bound by Recognizance to appear at the next Seſſions, and in the mean time to keep the Peace to-

wards any perticular perſon; and it doth manifeſtly appear to the Court upon the Affidavit of ſome credible perſon, that the proſecutor cannot come to proſecute by reaſon of ſickneſs, or ſome other lawful impediment allowed in Court, then upon a motion in Court, and good cauſe ſhewed, why the Recognizance ſhould be renewed, the appearance ſhall be recorded, and the Delinquent ſhall be bound over to the next Seſſions, and in the mean time to keep the Peace towards the proſecutor only, *Crompton*'s Juſtice 144. But if the proſecutor makes default by not appearing, and Affidavit is made, that his appearance is not impeded by ſickneſs, or any other lawful impediment, and that he meerly abſents himſelf out of a malitious intent, becauſe the Defendent ſhould not be diſcharged: Or, if a man be bound to appear, and in the mean time to keep the Peace, towards the King, and all his people, but not towards any particular perſon, then in both thoſe caſes, proclamation ſhall be made in open Court, in this manner;

If any perſon can ſhew any lawful cauſe, why the Peace granted againſt

J. S.

J. S. *ſhall be continued, let him come forth, and he ſhall be heard, for he ſtands upon his diſcharge.*

And if none come in to proſecute, the Offender ſhall be diſcharged.

Where a perſon is bound by Recognizance to appear at the next *Seſſions*, and cannot appear by reaſon of ſickneſs, or ſome apparent diſability allowed in Law, upon Affidavit made in open Court by ſome credible perſon, the Court may reſpite the Recognizance until the next Seſſions, endorſing the cauſe on the backſide thereof.

If exceptions be taken, to the diſability of any Bail, tender'd in open Court, then the Juſtices ſhall examine upon the Oath of ſuch perſon ſo proffered for Bail, how much he is worth, all his debts paid, and upon examination, allow, or reject the Bail, *Crompton*'s Juſtice 194 *nn.* 3. *Dal.* Juſt. 305.

When all the Recognizances be called and diſpatched, the Defaults ſhall be entred and orders for Attachments, and other Warrants, and ſubmiſſions of Recuſants ſhall be recorded, Differences concerning the ſettlement of poor people, and Baſtard children ſhall be heard

and decided, and Orders upon motions shall be granted.

Ord. 11. Note, that if any person do petition or move against another, in the absence of the adverse party, and the suggestion upon which the petition or motion is grounded, is true, and allowed by the Court, yet the Court will not grant an absolute Order thereupon, but only an Order that the adverse party shall shew good cause to the contrary, unless Affidavit be made, that he had timely notice to defend the same.

If an Order be granted to shew cause, and Affidavit be made that the adverse party was duly served with the same, and he doth not appear to shew cause according to the Order, but stands in contempt, then the Court upon motion will make the Order absolute.

When the Rule is given, or an Order granted upon any petition read, or motion made in Court, it is convenient that the Notes be immediately entred in a Book, to be kept by the Clerk of the Peace for that purpose, and be openly read to the Justices before another motion be made, to the end that if the same

be

be mistaken, it may be rectified by the Court.

Note, that if any person, who hath business in Court, be not of ability to retain counsel, he may set forth the same by petition to the Justices, and pray relief or redress thereupon.

Every contempt shall be answered in proper person, and not by Attorney, *Crompt.* Justice 190.

Then doth the Court proceed to the granting of Licenses to Badgers, Victuallers, and Ale-house-keepers. And note, that if any person desires a License to be a Badger, Lader, Kidder, Carrier, Buyer, or Transporter of Corn or Grain, he must appear in the open Sessions, and satisfie the Court that he is a married Man, and an Housekeeper of the Age of thirty years, or upwards, and hath lived three years in the County, and if upon examination, the Court shall approve of the party, and grant him a License, he shall forthwith enter into Recognizance, the Clerk of the Peace, saying thus to him.

A. B. *Thou doest acknowledge thy self*

ſelf indebted unto our Soveraign Lord the King, in the ſum of 40 l. *To be levied of your Lands and Tenements, of your Goods and Chattels, and this is upon condition, that you ſhall not by colour of your Licenſe, foreſtall, ingroſs, or otherwiſe practiſe, or do any act or thing contrary to the Statute in that caſe, made and provided.*

If any perſons ſhall deſire a Licenſe to brew and ſell Beer, they muſt bring Certificates, directed to the Court under the hands of Men of Truſt, where the parties to be licenſed do live, certifying that they be perſons of good Life and Converſations, and people that keep good order in their perticular Families, and that their Houſes be ſcituated in convenient places, having one convenient Lodging at the leaſt, in every of their reſpective Houſes, with all accommodations to receive or entertain a Paſſenger, or Traveller; and if upon the examination of the perſons, the Court ſhall think fit to grant a Licenſe to any of them; the party to be Licenſed with two ſufficient Sureties, ſhall enter into a

Re-

Recognizance, which shall be taken to this effect, the Clerk of the Peace saying,

A. B. *You do acknowledge your self indebted unto our Soveraign Lord the King in the sum of* 10 *l.* Stat. 5 & 6 Ed. 6. ca. 25.

C. D. *and* E. F. *you and either of you, do acknowledge your selves, joyntly and severally, indebted unto our Soveraign Lord the King, in the several sums of* 5 *l. a piece; To be levied of your Lands and Tenements, of your Goods and Chattels; And this is upon condition, that* A. B. *shall not suffer any unlawful Games to be used in his Victualling house, but shall keep good Order, and Rule there, according to the Statute in that case, made and provided.*

The Clerk of the Peace shall keep a Register-book, containing the true names, Sir-names, and places where every person Licens'd to buy and sell Corn, or other provision, or to keep Ale-house, or Victualling-house doth dwell, to the end it may appear to the Court who be Licens'd, and by whom, and who be not? and what other alteration hath been

been made from time to time, for the placing of men of honeſt and good converſations, and diſplacing of others of ill behaviour.

Memorandum, That when an Indictment of petty Larceny, is found againſt a priſoner, and he be arraigned thereupon, the Clerk of the Peace ſetteth down briefly his offence, in a ſheet of paper, according to the form ſet forth in the Clerk of Aſſize.

Note alſo, that as the Verdicts be given, the Clerk of the Peace doth perfect his Calendar, which being done, he doth draw into a ſheet of paper,

1. The Names of ſuch who are to be Tranſported.
2. The Names of ſuch who are to be ſent to the Houſe of Correction.
3. The Names of ſuch who are to be Fined and Impriſoned.
4. The Names of ſuch who are acquitted by the petty Jury.
5. The Names of Thoſe who are acquitted by the Grand Inqueſt.

When the Calendar is perfected, the Clerk

Clerk of the Peace doth deliver the ſame to the *Cuſtos Rotulorum*, or his Deputy whom he has aſſigned to give the Rules of Court, that he may proceed thereupon to deliver Judgement againſt the ſeveral offenders.

Then the Clerk of the Peace cauſeth the Gaoler to ſet the priſoners to the Bar in order, as their names and offences be ſet down in the Calendar; Firſt, Thoſe that are to be Tranſported; And then the Deputy *Cuſtos Rotulorum*, doth ſolemnly pronounce the Judgement of the Court againſt them; which being done the Gaoler is commanded to take thoſe priſoners aſide, and ſet thoſe Priſoners to the Bar, who are to be ſent to the Houſe of Correction, and then Judgement ſhall be likewiſe given againſt them in the like ſolemn manner, and ſo of the reſt.

Note, that every Judgement which ſhall be given, and every fine which ſhall be aſſeſſed, ought to be openly pronounced and declared by the Court, to the end it may advance the more good to the Prince in profit, to the Juſtices in credit, and to the People in Example. *Lambert*'s Juſtice.

Note,

Note, that where the Statute leaves the Fine to the diſcretion of the Court, or any Juſtice differs in opinion, touching the quantity of the Fine, or the quality of the puniſhment, the Deputy *Cuſtos Rotulorum* ſhall ſtate the matter of Fact to the Court; and every Juſtice there, beginning with the *Puiſney*, ſhall publickly give their ſeveral Votes, what Fine ſhall be impoſed, or what puniſhment ſhall be inflicted upon the offender, but if the queſtion in variance, ſhall be matter in Law, the Court will take time to adviſe with the Judges, according to the form of their commiſſion.

If the party indicted ſhall before conviction come into the Court, and proteſt his Innocency; but *quia noluit placitare cum Domino Rege*, putteth himſelf in *Gratiam Regis & petit admitti ad Finem*, though the fine be certain in the Statute, yet the Court may mitigate the ſame, *Lambert* 530. *Crompt.* Juſt. 159. *Shep.* Juſt. 113.

Where a perſon offends againſt a Statute, which is a prohibition in it ſelf, or where the Statute limits the Fine at the will of the King, the Court ſhall upon Indictment and conviction thereof, aſ-

ſeſs

ſeſs a Fine at their diſcretion, for the contempt, *Cromp.* Juſt. 12. & 159. 160. *Co.* 2. Inſt. 168. 216. 186. 187.

Upon every contempt the offender may be indicted, and upon conviction ſhall ſuffer Fine and Impriſonment, but if he tenders Sureties for the payment of his Fine, he ſhall be immediately delivered out of priſon, *Crompt.* Juſt. 190.

Where the Statute gives the Fine to the reparation of the Pariſh Church, or the High-ways, or to the poor of the Pariſh where the offence was committed; and the offender upon conviction doth tender the ſame in Court, the Clerk of the Peace ſhall forthwith cauſe the Cryer to call the Conſtable of that Pariſh, or in his abſence the chief Conſtable of that Diviſion, wherein is ſuch Pariſh, and by him ſhall convey the ſame to the Church-wardens, and Overſeers of the poor of that Pariſh, to the end the Fine may be diſtributed according to the intent and directions of the Statute.

If the Fine be not paid, and the Statute directs a Warrant to levy the ſame by Diſtreſs. upon the Goods and Chattels of the offender, then the Court doth direct the Clerk of the Peace, to draw up

up a Warrant to levy the ſame, according to the directions of the Statute.

If any perſon be committed by the Court to priſon, and Bail is allowed by the Law, and tender'd to the Court, and the Juſtices doubt the ſufficiency of the Bail; they may examine the ſecurity upon Oath, whether he be worth 10*l.* (or more if the caſe require) all his Debts paid, and upon the examination may allow, or reject the Bail.

All theſe things being done, and the Juſtices having heard all ſuch grievances, as are complained of unto them concerning miſdemeanours and the like; the Cryer ſhall make three proclamations, and adjourn the Seſſions; ſaying,

All manner of Perſons, that have any thing more to do, at this preſent Quarter-Seſſions of the Peace, holden before His Majeſtie's Juſtices of the Peace for this County of H. *may depart hence at this time, and keep their Day again, here or elſewhere upon a new Summons.*

God ſave the King.

The

The Buſineſs after the Seſſions.

THe Clerk of the Peace doth put all ſuch perſons into Proceſs, who were newly preſented at the laſt Seſſions, and doth enter their Names into the Book of Proceſs.

Then doth he write over fairly in parchment, all the new Proceſs for the Sheriff, and deliver them to him, within convenient time, after the end of the Seſſions, that he may have ſufficient time to execute the ſame.

After this, he doth draw up all Traverſes in form of pleading to any Indictments of Treſpaſs, Riots, Converſions, Depopulations, Decay of High-ways and Bridges or the like, for all ſuch as have taken order for the ſame, giving them copies thereof within convenient time after the laſt Seſſions, and ſhall enter all

Traverſes upon the Traverſe Roll; and make out the *Venire facias* upon the ſame.

Then doth he draw up a Certificate of the conviction of all Recuſants at the laſt Seſſions; and the ſame ſhall be ſigned by the Juſtices, and delivered into the Exchequer in *Eaſter* Term.

All Indictments, Informations, pleadings, Traverſes, Fines and Judgements, ſhall be entred on the Roll in parchment by the Clerk of the Peace, and be filed before the next Seſſions after Verdict or Judgement ſhall be given therein.

Laſtly, the Clerk of the Peace ſhall once a year, make up and ingroſs the great Eſtreat of all Stewards of Leets, and Liberties, chief Conſtables, petty Conſtables, Bayliffs of Liberties, Grand Jurors, and other Officers of the Court, for their Non-appearance at the Quarter Seſſions, for the whole year laſt paſt; and of all convicted Recuſants, and of the Amerciaments of all Offenders, for Nuſances, Treſpaſſes, *&c.*

and

and of the iſſues returned by the Sheriff upon the proceſs of the Seſſions, whereupon no Appearance hath been made, and before the return thereof into the Court of Exchequer, ſhall ſhew the ſame to the Juſtices of the Peace, at every *Michaelmas* Seſſions, that they may ſign the ſame.

The Form of a Charge to be given at the Quarter-Sessions of the Peace.

My Masters you that be sworn upon these several Inquests.

YOu be all summoned hither by His Majestie's Writ, some to be the Grand Inquisitors of this your Countrey, others to be the Trustees of your particular Hundreds and Divisions, in their behalf to enquire and present all such persons and offenders, that invade the Peace, and quiet of your Neighbourhood; and to incite your particular Duties in this service, the Law has obliged the performance of this Trust, by the sacred bond of an Oath, the course designed by God him-

himself, when he declared that an Oath for confirmation should be an end of all strife, therefore I doubt not but this sacred injunction, and the consideration of your own happiness, in the suppression of vice, and debauchery, and the preservation of peace and safety to your selves, and Country, by the performance of this service, will oblige you all to be more diligent in your enquiries, and discoveries of such maladies and offences as be committed to your charge; which for the ease of your memories, I shall reduce to this Method.

1. Offences against God.
2. Offences against the King.
3. Offences against the People.

1. 'Tis your duty to enquire and present such offences as do offend God, either in respect of his Person or his Church.

1. Offences against God in respect of his Person, as Conjuration, Perjury, &c.

1. If any person have invocated, en-

tertained, or employed any wicked ſpirit, to any intent or purpoſe whatſoever, or have uſed any Witch-craft, charm, or Sorcery, whereby any perſon is killed, deſtroyed or lamed, the offender ſhall ſuffer the pains of death as a Felon, without Clergy. *Stat.* 1. *Ja. ca.* 12.

If any Perſon hath by Witch-craft, Charm or Sorcery, attempted to find out hidden Treaſures, to provoke unlawful Love, to hurt any one's perſon, to injure any man's Goods; the offender ſhall ſuffer Impriſonment for a year, and once a quarter the ſhame of the Pillory for ſix hours, and confeſs his offence; and for the ſecond offence as a Felon ſhall ſuffer the pains of death without Clergy. *Stat.* 1. *Ja. ca.* 12.

2. Perjury, is a crime committed, when a legal Oath is tendred by a lawful Magiſtrate, in a judicial proceeding, who ſweareth falſly in a matter material to the iſſue, either by his own act or the ſubornation of another; the ſuborner forfeits forty pounds, the ſuborned twenty pounds; and for want of Goods to the value of 40. or 20 *l.* ſhall ſuffer impriſonment for ſix months, and the ſhame of the Pillory, *Stat.* 5. *Eliz.* 9.

2. Offen-

2. Offences againſt the Church.

1. If any perſon have malitiouſly ſtruck, or drawn any Weapon in any Church or Church-yard, to the intent to ſtrike another, the offender ſhall forfeit one of his ears, and if he want ears, he ſhall be ſtigmatized in the right Cheek, by a hot Iron with the Letter *F.* in token of a Fray-maker, by the *Stat.* 5 *&* 6 *Ed.* 6. *ca.* 4.

2. If any perſon have abſented himſelf from Church, during the time of Divine Service for a month together, the offender ſhall forfeit twenty pound by the *Stat.* 23 *Eliz. ca.* 1. Or forfeit two parts of his Eſtate to be divided into three parts, by the *Stat.* 3 *Ja. ca.* 4.

3. If any Miniſter have refuſed to read the Book of Common-Prayer, or to adminiſter the Sacrament in his Pariſh Church, or have depraved the Book of Common Prayer, the Offender ſhall forfeit his Spiritual promotions for a year, and ſuffer impriſonment for ſix months; and for the ſecond offence, deprivation and impriſonment for a year,

and for the third offence, deprivation and imprisonment for Life. *Stat. 1 Eliz. ca. 2.*

4. If any person deprave the Book of Common-Prayer, or compel any Minister to administer the Sacrament in other manner, or to use any other form of Worship, or adoration, the offender shall forfeit 100 marks, and for the second offence 200 marks, and for the third offence all his Goods and Chattels, and Imprisonment for Life. *Stat. 1 Eliz. ca. 2.*

5. If any person have depraved the Sacrament of the body and blood of our blessed Lord and Saviour, either by word of mouth, or otherwise, the offender shall suffer imprisonment, Fine and Ransome. *Stat. 1 Eliz. ca. 1.*

6. If any person have wilfully said or sung Mass, the offender shall forfeit 100 marks, and suffer Imprisonment for a year; and if any person shall hear Mass, he shall forfeit 100 marks, and suffer Imprisonment for a year. *Stat. 23 Eliz. ca. 1.*

7. If any person hath kept a School who is not licens'd by the Ordinary, or that hath retained any such School master

ſter ſhall forfeit 40 *s.* a day. *Stat.* 1 *Ja. ca.* 4.

8. If any perſon hath brought from the See of *Rome*, any *Agnus Dei*, Croſſes, Pictures, Beads, or other like Superſtitious thing to be worn or uſed; as well the perſon ſo bringing, as the party receiving the ſame ſhall incur the penalties of a premunire. *Stat.* 13 *Eliz. ca.* 2.

9. If any perſon hath maintained or defended the uſurped Authority of the Biſhop of *Rome*, or his See within His Majeſtie's Dominions, the offender, his aiders and aſſiſtants, ſhall incur the penalty of a premunire. *Stat.* 5 *Eliz. ca.* 1.

2. 'Tis your Duty to enquire and preſent offences againſt the King, which do relate either to the breach of the publick Peace, or to offences againſt common Juſtice.

1. Breaches of the publick Peace, as Felonies or Treſpaſſes.

1. Felonies, as Petty Treaſon, Murder, Man-ſlaughter, Buggery, Rape, Cutting out of Tongues, Burners of Houſes, Burglary, Robbery, Theft, Tranſporters of Sheep, Incorrigible Rogues, Petty Larcenies.

1. Petty

1. Petty Treaſon as it is a Felony, is inquirable in this Court, and is where the Servant hath killed the Maſter, Miſtriſs or Dame; the Wife her Husband; or the Clerk his Ordinary; the offender ſhall be drawn and hanged as a Felon.

2. Murder is, where a perſon hath killed another upon malice, and that is either fore-thought or implyed.

Malice forethought is, where a perſon hath killed another with a ſedate mind, and upon ſome conſideration.

Malice implyed is, where a perſon hath ſuddenly killed another without any provocation given, or hath ſtabbed a man having no weapon drawn. *Stat.* 1 *Ja.* 8. Or hath killed an Officer in executing his Proceſs: Or a Thief hath killed a true Man in reſiſting, *Mackallie's* Caſe Report. the offender ſhall ſuffer the pains of Death without Clergy.

3. Man-ſlaughter is, where a perſon hath killed another, upon preſent heat or a ſudden paſſion, the offender ſhall be allowed his Clergy.

4. Buggery is, where any perſon hath had carnal knowledge, againſt the Ordinance of the Creator, and order of Nature, with Man-kind or brute Beaſt,

or

or Woman-kind with brute Beast, the offender without Clergy shall suffer death. *Cook* 3. Jnst. 58.

5. Rape is, where any man hath had carnal knowledge of any Woman above the Age of ten years, against her Will, or of any Woman Child under the Age of ten years, by or without her consent, the offender without Clergy shall suffer death. *Cok.* 3. Jnst. 60.

6. If any person hath cut out the Tongue, or put out the Eyes of any the King's Lieges of malice prepensed, 'tis a Felony that merits death. *Co.* 3. Jnst. 62.

7. If any person hath malitiously burnt the dwelling house of another, or any Barn with Corn, or Stacks, or Ricks of Corn, the offender shall as a Felon suffer the pains of death.

8. Burglary is, where any person hath in the night time made any actual breach and entrance, into the dwelling house of another, with a Felonious intent, the offender shall suffer the pains of death, without Clergy.

9. Robbery is, where any person hath violently assaulted the person of another by putting him in fear, and taking away his

his money, the offender without Clergy shall suffer death. *Co.* 3. Jnst. 68.

10. Theft is, where any person hath privily taken any thing from the person of another, as Cut-purses, Pick pockets, the offender without Clergy shall suffer death.

11. If any person have transported any Sheep alive out of the King's Dominions, they and their aiders shall forfeit all their Goods, and suffer Imprisonment for a year, and then in some open Market have their left hand cut off. *Co.* 3. Jnst. 104. But the second offence is Felony, rewarded with the pains of death.

12. If any dangerous Rogue banish'd the Realm, have returned again without Licence, 'tis a Felony that deserves death, *Co.* 3. Jnst. 102.

13. Petty Larceny is, where any person hath taken, and carried away the Goods of another, that do not exceed the value of twelve pence, the offender shall be whipped.

2. Trespasses against the Peace, as Maihems, Assaults, Batteries, Riots, Routs, and unlawful Assemblies,

1. Mai-

1. Maihem is, where any perſon hath broke a bone, or cut off a Limb of another, whereby he is leſs able to defend himſelf, or offend his enemy, the offender ſhall be grievouſly fined. *Lambert* 429.

2. Aſſault is, where any perſon hath held up his hand againſt another, threatning him to ſtrike him, the offender ſhall be fined.

3. Battery is, where any perſon hath unlawfuly ſtruck another, the offender ſhall be fined.

4. An unlawful Aſſembly is, where three perſons or more, have met together to do an unlawful Act, as to commit a Rout or a Riot, and part without doing the ſame.

5. A Rout is, where three perſons or more, have met together to do an unlawful Act, as to commit a Riot, and move from the place where they firſt met, but afterwards part without doing the Act.

6. A Riot is, where three perſons or more, have met together to do an unlawful Act, as to beat a man, or lay open his Fences, and have done the ſame, in theſe three caſes, the offender ſhall be fined.

2. Next follow offences againſt common Juſtice, which extends.

1. To offences in general.
2. Offences committed by Officers intruſted with the particular Adminiſtration of Juſtice.
3. To the Diſorders 'twixt Maſters and Servants.

1. Offences in general, as Barretry, Maintenance, Extortion, &c.

1. Barretry is, where any perſon hath commonly moved, incited, or ſtirred up any Suits, or Quarrels, between Neighbour and Neighbour. *Co.* 1. Inſt.

2. Maintenance is, where any perſon hath maintained or taken in hand any ſides or quarrels, againſt common right, and to the hinderance of common Juſtice. *Cok, ibidem.*

3. Extortion is, where any perſon hath under colour of his Office, extorted larger Fees than be allowed by the Laws or Statutes of the Realm, in all theſe caſes the offender ſhall be fined.

2. Officers intruſted with the adminiſtra-

miſtration of Juſtice, that do neglect their duties; as Conſtables, Borſholders, Tithing-men, Overſeers of the Poor, Surveyors of the High-ways.

1. Conſtables, Borſholders, and Tithing-men, whoſe duty is the ſame, though they have diſtinct names, according to the cuſtom of the place, and if any of them have refuſed to keep the publick Peace of our Soveraign Lord the King, or have not duly kept Watch and Ward according to the directions of the Statute of *Winchester*, or have not apprehended all ſuſpected perſons, and Night-walkers; all Rogues, Vagrants and Vagabonds, that they have known have paſſed thorow their precincts; or have not ſpeedily purſued all Thieves and Murtherers upon Hue and Cry; or have not Monthly ſearched Ale-houſes, and places of Gaming and Bawdry: or have not ſeized all ſetting Dogs, Nets, or other Engines, kept by perſons not qualified, for the deſtruction of the Game; or have not well and duly returned all Precepts and Warrants to them directed from any Juſtices of the Peace; or have neglected any other thing incident

dent to their Office, the offender shall be grievously fined.

2. Overseers of the Poor, that have not monthly met together to confer about their charge, that have not weekly relieved the Impotent, that have not provided a common stock, and set their Poor at Work, that have suffered their Poor to beg abroad, or to crave relief of their Neighbours at home.

3. Surveyors of the High-ways, that have not appointed six days to amend the High-ways, that have not attended at the times appointed to direct the work, that have not presented the Defaulters to some Justice of Peace, that have not viewed the High-ways and Ditches; and amended all the defaults within their several Precincts.

3. Disorders betwixt Masters and Servants.

If any Master hath put away his Servant before the end of his term, without a quarters warning, he shall forfeit forty shillings. Or if any Master hath given greater Wages than assessed at the Sessions, he shall forfeit 5 *l.*

If

If any Servant hath refuſed to ſerve for the Wages aſſeſſed at the Seſſions, or hath departed from their ſervice without a Quarters warning, he ſhall ſuffer Impriſonment.

If any perſon hath taken work by Great, and left the ſame before it be finiſht; he ſhall ſuffer Impriſonment for a Month, and forfeit 5 *l.* to the party grieved: Or if any perſon retained in ſervice to work, hath departed without Licenſe, he ſhall forfeit one month's Impriſonment.

If any perſon hath uſed any Art or Myſtery, or ſet any other to work therein, having not ſerved an Apprentiſhip to the ſame, he ſhall forfeit 40 *s.* for every month he ſhall uſe the ſame Art or Myſtery. *Stat.* 5 *Eliz. ca.* 4.

3. You ſhall inquire, and preſent offences againſt the Country, which do extend to the abatement of the general plenty, or to the Annoyance of the Country.

1. Thoſe Delinquents that hinder the plenty of the Country, be Fore-ſtallers, Ingroſſers, Regra-

tors, Deſtroyers of the Game, and Diſorder'd Victuallers.

1. A Fore-ſtaller is, where any perſon hath bought any Merchandize, Victual, or other thing, coming to any Fair or Market to be ſold, or hath inhaunced the price, or diſſwaded the bringing to Market.

2. An Ingroſſer is, he that hath bought Corn, Grain, or other Proviſion of Victual, with intent to ſell the ſame again.

3. A Regrator is, a Perſon that hath bought or ſold in the ſame Market, or in any other Fair or Market, within four miles, the offender for any of theſe offences ſhall forfeit the value of the Goods, and ſuffer two month's Impriſonment. And for the ſecond offence, the penalty ſhall be double. And for the third offence ſhall forfeit all his Goods, ſtand in the Pillory, and ſuffer Impriſonment at the King's pleaſure. *Stat. 6 Ed. 6. ca.* 14.

If any perſon hath bought any Corn or Grain, out of any Fair or Market, to ſell again without Licenſe, he ſhall forfeit 5 *l.* one moiety to the King, the other

other to the Informer. *Stat.* 5 *Eliz. ca.* 12.

4. Deſtroyers of Game and Wild-fowl. If any perſon hath ſhot at any Partridge, Pheaſant, Pidgeon, Mallard, Duck, Teal, Wigeon, Gooſe, Heath-cock, or ſuch like Fowl; or hath taken any ſuch Fowl with Nets, or other Engines; or deſtroyed the eggs of any Pheaſant, Partridge or Swan; or traced any Hares in the Snow; or being not qualified by the Law, hath kept any Grey-hound, Setting-dog, or Nets, he ſhall ſuffer Impriſonment for three months, and be bound with Sureties not to offend again. *Stat.* 1 *Ja. ca.* 27.

5. Deſtroyers of Fiſh. If any perſon hath uſed any Nets to deſtroy the Spawn or Fry of Fiſh; or hath taken any Fiſh with unlawful Nets, the offender ſhall forfeit 20 *s.* and the Fiſh ſo taken, and the unlawful Nets; and if any Jury-man hath concealed any ſuch offence, he ſhall forfeit 20 *s.* *Stat.* 1 *Eliz. ca.* 1.

If any perſon hath broke down any Pond-head, or fiſhed there without the owners Licenſe, he ſhall ſuffer ſix months Impriſonment, and be bound to the good behaviour for 7 years. *Stat.* 5 *Eliz. ca.* 21.

6. Disordered Victuallers. If any Butchers, Brewers, Bakers, Poulterers, Cooks or Fruiterers, have agreed to sell their Victual at certain prizes, the offender shall forfeit 10 *l.* and if not paid within six days shall suffer twenty days Imprisonment, with the allowance only of Bread and Water, and for the second offence 20 *l.* and if not paid within six days, shall suffer the shame of the Pillory; and for the third offence shall forfeit 40 *l.* and if not paid within six days, he shall loose one of his Ears in the Pillory, and be infamous. *Stat.* 2 & 3 *Ed.* 6. *ca.* 15.

If any Butcher hath sold any mezeled Swines-flesh, or dead of the Murrain, he shall be amerced; for the second offence be set in the Pillory; for the third offence be imprisoned and fined; and for the fourth offence shall abjure the town. *Stat.* 31 *Ed.* 1. *ca.* 7.

If any Butcher hath sold any Fat Cattle alive, he shall forfeit double the value. *Stat.* 15 *Car.* 2. *ca.* 8.

2. Annoyances, as Cottagers, Receivers of Inmates, the Defaults of High-ways and Bridges and

and the permiſſion of Rogues, and Vagabonds.

1. Unlawful Cottagers. If any perſon hath erected a Cottage, not laying four Acres of Free-hold Land to the ſame, the offender ſhall forfeit 10 *l.* and for every month that he hath continued ſuch Cottage, he ſhall forfeit 40 *s.*

2. Receivers of Inmates. If any perſon hath received into any ſuch Cottage, any poor perſon, or more Families than one to inhabit therein; he ſhall for every month forfeit 10 *s.* *Stat.* 31 *Eliz. ca.* 7.

3. The Defaults of High-ways. If any perſon hath refuſed to ſcour his Ditches, or to keep low his Hedges, Trees and Buſhes, ſhall he forfeit for every ſuch default 10 *s.*

If any perſon hath not ſcoured his Ditches, in the ground next adjoyning to the ground near the High-way, to the end the Water may have the better paſſage, he ſhall forfeit 12 *d.* for every pole left unſcoured.

If any perſon hath caſt the ſcouring of his Ditch into the High-way, and ſuffered it to lye there ſix months, he ſhall

forfeit 12 *d.* for every Load, all these penalties to be imployed towards the repair of the Highways. *Stat.* 18 *Eliz.* 10.

If any travelling Waggon, or Carriage, loaded with above 2000 weight in Winter, and 3000 in Summer, or with more then quarters of Wheat, or 8 quarters of Barley, Malt or Oats, have been drawn in any High-way, or with above five horse-beasts at length, the offender shall forfeit 40 *s.* *Stat.* 14 *Car.* 2. *ca.* 6. 22 *Car.* 2. *ca.* 12.

If any Bridges, or the High-ways within 300 foot next the Bridges be out of repair, the parties that ought to repair them shall be fined. *Stat.* 22 *H.*8. *ca.* 5.

4. Rogues and Vagabonds; If any person hath seen a Rogue beg, and did not convey him to the next Constable, he shall forfeit 10 *s.* And if the Constable hath not punisht him according to the Statute, he shall forfeit 20 *s.* *Stat.* 1 *Ja.* *ca.* 7.

If any person hath run away, and left his charge to the Parish, he shall be punisht as an incorrigible Rogue, and he that threatens so to do, shall be sent to the

the Houſe of Correction, unleſs he finds Sureties to diſcharge the Town. *Stat. 7 Ja. ca.* 4.

Laſtly, You ſhall inquire and preſent all other things that be within the compaſs of your enquiry, and the juriſdiction of this Court, and ſo I diſmiſs you to your buſineſs.

NOte, that Offences puniſhable before Juſtices of Peace, in other manner than by Indictment, are omitted out of this charge, in regard that the length thereof would then have exceeded the uſual time, which would have burthened the Jurors, when the Statutes have directed another way of proceeding in thoſe caſes, as by examination, &c.

Proceſs

Hath it's name, becauſe it proceedeth, or goeth out upon former matter,

either Original or Judicial, *Lamb.* 490.

Authority to make Proceſs upon Indictments is given to the Juſtices by words in their Commiſſion, or by Implication, where the power of Hearing and Determining is given; for it cannot be performed, unleſs the party either do come in *Gratis*, or be brought in by Proceſs. *Lamb.* 491. and the Proceſs muſt be in the King's name with a *non omittas*, and bear *Teſte* under the names of two Juſtices ſitting in the Court. *Lambert. ibidem.*

Proceſs upon Indictment of Felony, is a *Capias*, and an *Exigent. Stat.* 23 *Ed.* 3. *ca.* 14. and may be ſent into any Foreign County. 5 *Ed.* 3. *ca.* 11.

Indictment of Treaſon, Felony, or Treſpaſs in one County, nameth the Indicted to be of another; the firſt Proceſs ſhall go into the County where he is Indicted, and after the return thereof another ſhall iſſue out to the Sheriff, where the offender is ſuppoſed by the Indictment to be moſt converſant, returnable three months after before Juſtices where he was Indicted; and if he be not to be found there, then that Sheriff to make proclamation at two

Coun-

County-Courts before the return, that he appear before the Juſtices of the County where the Indictment is at the day in the *Capias*, and if he appear not, an *Exigent* to be awarded. *Stat.* 8 *H. 6. ca.* 10.

Proceſs upon Indictments of Treſpaſs againſt the Peace, or of other offences againſt penal Statutes, not being Felony or greater offence (unleſs the Statute otherwiſe directs) is a *Venire Facias*, returnable at the next Seſſions, and if the offender be returned ſufficient then a *Diſtringas* infinite; but if the return be *Nihil habet*, then a *Capias*, after that an *Alias Capias*, then a *Pluries* ſhall go forth, and after that an *Exigent* till the party be taken, or yield himſelf, or elſe be outlawed. *Dalton* 404. *Lambert* 493.

Like Proceſs upon Indictments grounded upon the *Stat.* 8 *H. 6. ca.* 9. againſt Bailiffs of Franchiſes, or the Sheriff, for not enquiring of Forcible Entries, as upon Indictments of Treſpaſs.

Theſe Proceſſes muſt be always directed to the Sheriff, (who is the King's immediate Officer to execute all Proceſs) but if the Sheriff or any of his Officers be

be parties, then they must be directed to the Coroners of the County, to cause the offender to appear, and the Indictment. But if the offender be present, and confess the Indictment, Information, or offence, then no Process shall issue out; for he shall be committed forthwith to prison, until he hath paid his Fine or given Sureties for it. *Dalton* 404. *Crompt.*

Process upon the Statute of unlawful Games, *&c.* is a *Venire Facias*, a *Capias* and an *Exigent*. *Stat.* 33. *H.* 8. *ca.* 10.

Process upon the Statute of Victuals, Attachment, *Capias*, *Exigent*, *Lamb.*

Where a servant runs away into another County, a *Capias* shall be awarded to the Sheriff of that County. *Stat.* 5 *Eliz. ca.* 4. So where Land in one County is chargeable to repair a Bridge in another County. 22 *H.* 8. *ca.* 5.

Process upon the *Stat.* of 5 *&* 6. *Ed.* 6. *ca.* 14. and 5 *Eliz. ca.* 12. concerning Forestallers is a *Fieri Facias*, or a *Capias.*

No Process is to be awarded by the Justices after Outlawry but they are to certifie the Outlawry into the King's Bench. *Lamb.*

If

If the Sheriff returns a *Cepi Corpus*, and hath not the body, he ſhall be amerced, and a Diſtreſs *ad habendum Corpus* ſhall iſſue forth *ad Habendum* at a day certain. *Cromp.* 161. *nu.* 49.

If a perſon comes in upon the return of a *Capias*, or other Proceſs, and confeſſeth himſelf to be the party, but ſaith he will not appear, the Court ſhall commit him until he ſhall find Sureties, *&c. Cromp.* 161.

If the Jury upon Indictment grounded upon the Statute of 8 *H.* 6. or the like, will not give a Verdict before the Juſtices of Peace, but depart in contempt of the Court, an Attachment ſhall be awarded to bring in their bodies to anſwer the King for the contempt. *Cromp.* 190.

If a Juſtice of Peace commands a perſon by his precept to appear at the next Seſſions on pain of ten pounds, and the party makes default, an Attachment ſhall iſſue forth againſt him. *Cromp.* 123. *nu.* 9.

No Proceſs ſhall be awarded out of the Quarter-Seſſions for any offence, or other Act depending before the Juſtices of Peace in any of their perticular Courts of

of privy Seſſions, or for any contempt made to any order granted, or proceſs iſſuing out of the ſaid Courts, unleſs the ſaid Juſtices, before whom the ſaid Seſſions were held, do bind over the Delinquent to anſwer his contempt in the Quarter Seſſions, and there to ſuffer ſuch penalties or Judgements, as the Juſtices in that Court ſhall judge moſt proper to the nature of the offence.

Proceſs

Proceſs upon Indictments, and Preſentments, taken out of Mr. Lambert, *who collected them out of the old Imprinted Book of the Juſtices of Peace.*

NOte, that the Proceſs upon an Indictment of Treaſon or Felony is uſually,

A *Capias.*
An *Alias Capias.*
An *Exigi Facias.*

And in every ſuch *Capias*, there ought to be three weeks ſpace between the date and the return thereof:

The Capias *is thus.*

CAROLUS *Secundus, Dei, &c. Vicecom.* H. *ſalutem. Præcipimus tibi quod non omittas propter aliquam libertatem in Balliva tua, quin eam ingrediaris & Capias* A. B. *de* C. *in dicto Com.* Labourer *& eum ſalvo cuſtodiri facias; Ita quod habeas corpus ejus coram cuſtodibus pacis noſtræ, necnon Juſticiariis noſtris ad diverſa Felonias, tranſgreſſiones & alia malefacta, in dicto Com. tuo perpetrata audiendum & terminandum aſſignatis ad proximam Generalem Seſſionem pacis Comitatus tui poſt clauſum Paſche proxime futurum tenendam, (ubicunque in eodem Com. teneri contigerit) ad reſpondendum nobis tunc ibidem de quadam Felonia unde indictatus exiſtit. Præcipimus etiam tibi quod non omittas propter aliquam libertatem in Balliva tua prædicta quin diligenter inquiras quæ bona & catalla prædictus* A. B. *habet in Balliva tua, & ea in manus noſtras ſeiſiri facias, ut ulterius inde fieri poſſit prout de jure & ſecundum legem & conſuetudinem Regni Noſtri Angliæ fuerit faciendum. Et habeas ibi tunc hoc præceptum. Teſte* R. F. *Armigero apud* M.

prædict,

prædict. in Comitatu prædicto, 24. *die* February *Anno Regni Nostri*, &c.

The Alias Capias.

CAROLUS *secundus*, &c. *Vicecom.* H. *salutem. Præcipimus tibi (sicut alias præcipimus) quod non amittas propter aliquam Libertatem in Balliva tua quin eam ingrediaris & capias* A. B. *de* C. *in Com. tuo Labourer.* And so word for word, as the *Capias* before changing the days only.

The Exigi Facias.

CAROLUS *secundus*, &c. *Vicecomiti* H. *salutem. Præcipimus tibi quod exigi Facias* A. B. *de* C. *in dicto. Com. Labourer de Comitatu in Comitatum, quousque secundum Legem & consuetudinem Regni Nostri Angliæ utlagetur si non comparuerit, & si comparuerit tunc eum capias & salvo eum custodiri facias, ita quod habeas corpus ejus coram custodibus pacis nostræ, necnon Justiciariis nostris ad diversa Felonias transgressiones & alia malefacta in dicto Com. perpetrata audiendum & terminandum assignatis ad Generalem Sessionem*

nem pacis Comitatus tui proxim. post Festum St. Michaelis Archangel. *proxime futurum tenendam (ubicunque in eodem Com. teneri contigerit) ad respondendum nobis de quadam Felonia unde indictatus existit & unde tuipse mandasti coram prefat. Justic. nostris (tali die, &c.) quod prefatus* A. B. *non est inventus in Balliva tua, & habeas tum ibi hoc breve. Teste* H. C. *Armigero apud* H. *in Com. predict. sexto die Septembris Anno Regni nostri* 2. *Ad quem diem* J. F. *Armiger Vicecom. Comitatus predict. retornavit quod ad Comitatum suum tentum apud* P. *quarto die* Maii, *Anno Regni Domini Regis nunc,* &c. (and so shewing the days of his other four Counties) *predictus* A. B. *exactus fuit & non comparuit & propterea utlegatus fuit.*

The

The common Proceſs upon other Preſentments not being in Felony, nor ſpecially ſet forth in Statutes, is in that old Book declared to be, firſt.

A Venire Facias, *thus.*

CAROLUS *Secundus*, &c. *Vicecomiti* H. *ſalutem, præcipimus tibi quod non omittas propter aliquam libertatem in Balliva tua, quin Venire Facias* A. B. *de* C. *in dicto Comitatu tuo Yeoman coram cuſtodibus pacis noſtræ necnon Juſticiariis noſtris ad diverſa Felonias tranſgreſſiones & alia malefacta in dicta Com. perpetrata audiendum & terminandum aſſignatis, ad Generalem Seſſionem pacis Comitatus tui proxime poſt*, &c. *ad reſpondendum nobis*

ſuper quibuſdam Articulis ſuper ipſum A. B. *præſentatis, & habeas ibi tunc hoc præcept. Teſte*, &c.

And if upon this *Venire Facias* the party be returned ſufficient, then a *Diſtringas* muſt go out, and ſo the ſame proceſs infinite, until the offender do come in, which is thus.

Carolus *Secundus*, &c. *Vicecomiti* H. *ſalutem. Præcipimus tibi quod non omittas propter aliquam libertatem in Balliva tua, quin eam ingrediaris & Diſtringas* A. B. *de* C. *in Comitatu tuo Yeoman per omnia terras & tenementa*, &c. *Et quod habeas corpus ejus coram præfatis Juſticiariis*, &c. *ad reſpondendum*, &c. *Teſte*, &c.

But if *Nihil habet* be returned at the firſt againſt him, then a *Capias*.

An *Alias Capias*.

A *Pluries Capias*, which hath no change, but the word *Pluries* for *Alias*: And laſtly, an *Exigi Facias* muſt be awarded againſt him.

A *Superſedeas* to ſtay the taking of one that is indicted of ſome Treſpaſs or contempt.

CAROLUS *Secundus*, &c. *Vicecom.* H. *ſalutem. Quia* A. B. *de* C. *in dicto.Com. tuo Yeoman, venit in Cur. noſtram apud* M. *tali die*, &c. *Coram* R. F. *Armigero & ſociis ſuis cuſtodibus pacis noſtræ ac Juſtic. noſtris ad diverſa Felonias tranſgreſſiones*, &c. *Aſſignatis apud* M. *tali die*, &c. *Et invenit ſufficientes manucaptores eſſendi coram præfatis Juſticiariis ad proximam Generalem Seſſionem pacis in dicto Comitatu tenendam, ad reſpondendum nobis de quibuſdam tranſgreſſionibus ſupra ipſum præſentatis: Ideo tibi præcipimus, quod de capiendo præfat.* A. B. *ſeu ipſum impriſonando vel eum ea de cauſa aliqualiter moleſtando omnino ſuperſedeas. Et ſi eum ea de cauſa & non alia ceperis, tunc ipſum ſine dilatione deliberari Facias. Teſte præfato* R. F. *Armigero apud* T. *prædicto die & Anno*, &c.

A *Superſedeas* to ſtay the *Exigi Facias* upon an Indictment of Felony.

CAROLUS *Secundus*, &c. *Vicecom.* H. *ſalutem. Quia* A. B. *de* C. *in dicto Com. tuo Yeoman, venit in Curiam noſtram apud* M. *tali die* &c. *coram* R. F. *Armigero & ſociis ſuis cuſtodibus pacis noſtræ, necnon Juſticiariis noſtris ad diverſa Felonias*, &c. *aſſignatis, ac ſe reddidit priſonæ noſtræ* (*occaſione quarundam Feloniarum unde coram eis indictatus eſt*) *ut in eadem moretur ſicut nobis conſtat*: Or thus, *Quia invenit nobis, ſufficientem manucaptionem eſſend. coram præfat. Juſticiariis ad proximam Generalem Seſſionem pacis Comitatu tenendam, ad reſpondendum nobis de quibuſdam Feloniis unde cor. eis indictatus exiſtit. Ideo tibi Præcipimus quod de ulterius exigendo præfatum* A. B. *ad aliquem Comitatum tuum vel eum impriſonando ſive ipſum ea occaſione moleſtando omnino ſuperſedeas & habeas ibi hoc Breve. Teſte*, &c.

The return of a *Certiorari* ſent to remove an Indictment may be thus.

Firſt, upon the back-ſide of the Writ of *Certiorari*, endorſe theſe or the like words. *Executio*

Executio iſtius Brevis patet in quadam Schedula eidem Brevi annexa.

And the Schedule may be thus:

Ego A. B. *unus cuſtodum pacis ac Juſticiariorum Dom. Regis ad pacem in dicto Com.* H. *conſervandam necnon ad diverſa Felonias tranſgreſſiones & alia malefacta in eodem Com. perpetrata audiendum & terminandum aſſignatorum, virtute iſtius Brevis mihi deliberati, indictamentum illud (unde in dicto Brevi fit mentio) una cum omnibus idem Indictamentum tangentibus in Cancellariam dicti Domini Regis diſtincte, & aperte ſub ſigillo meo certifico. In cujus fidem & Teſtimonium, ego præfatus* A. B. *his præſentibus ſigillum meum appoſui: Datum die menſis Anno Regni*, &c.

Then take the Record of the Indictment and cloſe it within the Schedule, and ſeal them both together.

Note, that though in the old Book theſe Proceſs be teſted by one Juſtice of Peace alone, yet if they iſſue out of a Seſſions, they ought to bear teſte under the hands of two Juſtices, whereof one of the *Quorum* by the Conuſion of Peace.

A Table of Fees due to the Clerk of the Peace, and other Officers at the General Quarter-Sessions of the Peace.

To the Clerk of the Peace,

FOr drawing every Indictment in Felony, Treſpaſs, Aſſault, Battery, Force, Riot, and the like. 2 *s.*

For the Copy of any ſuch Indictment 1 *s.* or 4 *d. per* Sheet at the Election of the Clerk.

For drawing any ſuch Indictment that exceeds the length of ſeven Sheets. 3 *s.* 4 *d.*

For the Copy thereof 1 *s.* 8 *d.* or 4 *d. per* ſheet at the Election of the Clerk.

For

For drawing every Indictment upon a Statute. 3 *s.* 4 *d.*

For the Copy of ſuch Indictment. 1 *s.* 8 *d.*

But if ſuch Indictment exceed the uſual length, then 4 *d.* the ſheet.

For drawing every Information. 3 *s.* 4 *d.*

For the Copy of every Information. 1 *s.* 8 *d.* or 4 *d. per* ſheet at the Election of the Clerk.

For every Appearance to an Indictment of Treſpaſs, Aſſault, Force, Battery, Riot, or the like. 2 *s.*

For every Appearance to an Information. 2 *s.* 4 *d.*

For the Diſcharge of any perſon upon Bail for the Peace, good Behaviour, Contempt, or the like. 2 *s.*

For the warrant of Diſcharge thereupon. 4 *d.*

For every Imparlance upon Indictment. 2 *s.*

For every License to compound with an Informer. 2 *s.* 6 *d.*

For awarding and making forth Proceſs againſt the Defendent upon an Information. 2 *s.*

For the Diſcharge of every Indict-

ment for Felony, where *Ignoramus* is found. 7 *s.* 4 *d.*

For the diſmiſſion of any perſon Indicted of Treſpaſs, Riot, Forcible Entry, or the like. 4 *s.* 4 *d.*

Stat. 2 H. 4. ca. 10. For the plea Not Guilty to an Indictment. 2 *s.*

For the plea Not Guilty to an Information. 2 *s.*

For drawing all Demurrers ſpecial Pleas, Replications and Rejoynders for every Sheet. 8 *d.*

For the Copy thereof 4 *d. per* ſheet.

For relinquiſhing a plea. 2 *s.* 4 *d.*

For a ſubmiſſion. 2 *s.*

For Judgement thereupon. 2 *s.*

For a Diſcharge. 2 *s.*

For entring the Iſſue, Roll and Aſſignment of time to the parties for Tryal upon the Record. 8 *d.*

Stat. 2 H. 4. ca. 10. * For the *Venire Facias* upon the plea Not Guilty. 2 *s.*

For a *Diſtringas Jur.* or the continuance of the *Venire Facias* for ſuch Tryals, for the Record. 2 *s.*

For a Copy of the Traverſe. 2 *s.* 8 *d.*

For every Subpœna *ad teſtificand.* 2 *s.* 6 *d.*

For every Ticket. 4 *d.*

For

For the Appearance upon the Recognizance to Traverse. 2 s.

For reading the Record. 2 s.

For reading every Evidence upon the Tryal. 1 s.

For taking and entring every Verdict found Not Guilty. 2 s

For entring the Judgement thereupon 2 s.

For the Copy of every Judgement given after Verdict. 2 s.

For every Acquittal upon an Indictment for Felony. 9 s. 4 d.

For entring Judgement upon every Information. 3 s. 4 d.

For every judicial Writ thereupon. 2 s.

For the discharge of a Judgement. 2 s. 10 d.

* For the continuance of any matter upon Information or Indictment, after issue joyned, for every Sessions. 2 s.

* For every writ of Restitution to restore stollen Goods. 6 s. 8 d.

For every Writ of Restitution. 6 s. 8 d.

For the Appearance upon every Recognizance. 2 s.

For the Discharge upon every Recognizance. 2 s.

For

For the reſpiting every Recognizance. 2 s.

For taking a new Recognizance. 2 s.

* Where a perſon bound by Recognizance for Felony, Peace, or good Behaviour, dyeth before the day of Appearance: Upon which the Sureties plead the Death, for drawing the plea, entring the Judgement and the Clerk's Fee. 13 s. 4 d.

* For entring the ſubmiſſion of every Recuſant his plea and Judgement thereupon. 13 s. 4 d.

* For the allowance of every *Superſedeas* for the Peace or Good Behaviour. 4 s.

For the Allowance of every *Certiorari*, Writ of Error, ſpecial *Supplicavit*, or *Procedendo*. 6 s. 8 d.

For the Return of every name upon ſeveral *Certioraries*. 2 s.

But if the return be extraordinary long, as of Orders or the like, then for drawing and ingroſſing every ſheet. 8 d.

For the Copy of every Writ of Errour, *Certiorari*, ſpecial *Supplicavit*, or *Procedendo*. 1 s.

For certifying every Indictment or Pre-

Preſentment before Tryal. 2 s.

For taking ſecurity by bond for payment of Coſts upon Indictment of Forcible Entry, Riot and Battery. 2 s.

For certifying every Recognizance. 6 s. 8 d.

For every *Scire Facias* upon a Recognizance. 2 s.

For drawing and entring of every Order of Seſſions of an ordinary length. 4 s.

For the Copy of every Order. 2 s.

For the Copy of every old Order. 2 s.

For drawing and entring of Orders of more than an uſual length. 5 s.

For the Copy of any ſuch Orders. 2 s. 6 d.

For drawing every Certificate for the repairing High-ways, and Bridges. 1 s.

For the allowance thereof and filing. 2 s.

For every Badger's Licenſe. 1 s. Stat. 5. Eliz. c. 12.

For taking the Recognizance upon the ſame. 8 d.

For entring the Licenſe. 4 d.

For a Licenſe to draw and ſell Beer. 1 s. 6 d.

For

Dalton 377. Stat. 5 & 6 Ed. 6. ca. 25. This Fee is given to Clerks of the Peace by proclamation 19. *Jan.* of 18 *Jacobi.*

For taking the Recognizance upon the ſame. 1 *s.*

Stat. 27 H. 8. ca. 16. For inrolling a Bargain and ſale of Lands, not exceeding forty ſhillings *per annum.* 1 *s.*

For inrolling a Bargain, and ſale of Lands, exceeding forty ſhillings *per annum.* 2 *s.* 6 *d.*

Stat. 1 Jac. ca. 27. For Licenſe to ſhoot Hawks-meat and taking Recognizance thereupon. 1 *s.*

Stat. 2 & 3 Phil. and Mary ca. 8. For making of Eſtreats for levying Fines for the Defaults of High-ways upon the view of a Juſtice of the Peace in every pound. 1 *s.*

For the Clerk of the Peace his hand to every Record. 1 *s.*

For the entring or certifying of every Record of Conviction. 1 *l.*

For every Warrant of the peace, or good Behaviour. 2 *s.*

For every *Capias* to Fine. 2 *s.*

For the Ticket of every perſon elected Conſtable to be paid by him that is diſcharged. 1 *s.*

For the Ticket of every Treaſurer diſcharged out of his Office. 2 *s.*

For

For the Diſcharge of every grand Jury man by order of Court from his appearance. 2 *s.*

For the Diſcharge of every man of the petty Jury upon like order. 1 *s.*

For the filing of every Certificate or Report. 1 *s.*

For every Certificate to the Lord Chancellour or Lord Keeper of loſs by fire, in order to the obtaining of Letters Patents for recovery of ſuch loſs by a charitable collection. 6 *s.* 8 *d.*

For a *Superſedeas* to every *Exigent.* 2 *s.* 6 *d.*

For the appearance and diſcharge of every one upon the *Exigent.* 8 *s.* 8 *d.*

For drawing up every Record whereupon any perſon ſtands Outlawed 4 *d. per* Sheet, and for ingroſsing in parchment and tranſmitting every ſuch Record upon Writ of *Certiorari* 8 *d. per* Sheet, in the whole. 1 *s.*

For taking and drawing up of every ſpecial Verdict. 6 *s.* 8 *d.*

For a Copy thereof *per* Sheet. 4 *d.*

For the entry of every Commitment. 1 *s.*

For the Diſcharge of any Recognizance, or other charge drawn into Eſtreat and

and ingrossed ready to be transmitted into the Exchequer according to the length thereof and charge of parchment.

Note, that the Fees which have this mark * be taken out of the Table of Fees in the Crown Office.

To the Sheriff.

For his Warrant upon the Process to be paid upon the discharge. 2 *s.*

For the return of every *Venire Facias.* 2 *s.*

For the return of every *Distringas Jurator.* 11 *s.* 4 *d.*

To the Cryer.

For discharge of every Person upon Indictment, Information or Recognizance. 4 *d.*

For swearing the Jury upon the tryal of every Traverse. 1 *s.*

For swearing every witness to an Indictment. 4 *d.*

For swearing every witness upon a Traverse. 4 *d.*

To

To the Bayliffs.

For ſerving every Summons or *Diſtringas.* 2 *s.*

For ſerving every other Proceſs, and taking bond of Appearance. 2 *s.* 4 *d.*

For carrying every Bill of Indictment from the Court to the Grand Jury. 4 *d.*

For keeping the Jury upon every Traverſe. 1 *s.*

To the Bayliff that keeps the Grand Jury.

For every Indictment that he receives and carries in to the Grand Jury. 4 *d.*

To the Gaoler.

For every Commitment to the Goal, if the party continues there. 11 *s.* 4 *d.*

To the Under Gaoler. 2 *s.*

Note, if a Perſon attainted of Treſpaſs, cometh in *Gratis*, and findeth Sure-

ty

ty for his Fine, ſhall pay no Fees to the Sheriff or Gaoler; ſo if a perſon be Indicted before a Juſtice of Peace and committed till he pay his Fine ſhall pay no Fees. *Crompton* Juſtice 176. *a Numb.* 6.

RULES

Rules and Orders to be obſerved by all Juſtices of Peace, Mayors, Bayliffs, and other Officers, for prevention of the ſpreading of the Infection of the Plague. Publiſhed by His Majeſtie's ſpecial Command, in the Year of our Lord God, 1666.

1. YOu are to take care, That no ſtranger be permitted to lodge or abide in any City, Town, or Village without a ſufficient Certificate of health, and the conſent of the next Juſtice of Peace or chief Magiſtrate (if within a Corpo-

ration) which said Certificate to be made by the Minister and Church-Wardens of the Parish from whence such person came, and confirmed under the Hand and Seal of the next Justice of Peace to the said Parish.

2. That no old Houshold-Goods whatsoever be received into any City, Burrough, Town, Village or Hamlet, coming from any place suspected to be Infected with the Plague, without sufficient Certificate.

3. That all publick Meetings and Concourses of People, as much as may be (especially to Funerals, Wakes or Revels) be Prohibited, where there is any suspicion of the Plague.

4. That no Vagabonds nor Beggars be permitted to go and wander about the Countrey, or in any other City or Place; and, That you appoint Watching and Warding for that end; and that all publick places (especially Streets and Passages) be kept sweet and clean, and that all Laystalls, Dunghils and Slaughter-houses near any Dwellings be removed to places more remote.

5. That Order be given to all Houf-

holders

holders to keep their Dwelling houses sweet and clean, and to keep shut all Windows opening towards Infected Houses.

6. That Fires in moveable Pans, or otherwise, be made in all necessary publick Meetings in Churches, &c. and convenient Fumes to correct the Air be burnt thereon.

7. That care be taken that no unwholsom Meats, stinking Fish, Flesh, musty Corn, or any other unwholsom Food be exposed to sale in any Shops or Markets.

8. That no Swine, Dogs, Cats, or tame Pigeons be permitted to pass up and down in Streets, or from house to house, in places Infected.

9. That the Laws against Inn Gates be forthwith put in strict execution, and that no more Ale-houses be Licensed than are absolutely necessary in each City or place, especially during the continuance of this present Contagion.

10. That each City and Town forthwith provide some convenient place remote from the same, where a Pest-house, Huts or Sheds may be Erected, to be in readiness in case any Infection should

break out: which if it shall happen to do, That able and faithful Searchers and Examiners be forthwith provided and Sworn to Search all suspected bodies, for the usual signs of the Plague, viz. Swellings or Risings under the Ears or Arm pits, or upon the Groynes, Blaines, Carbuncles, or little Spots, either on the Breast or back, commonly called Tokens.

11. That if any House be Infected, the sick Person or Persons be forthwith removed to the said Pest house, Sheds, or Huts, for the preservation of the rest of the Family: And that such house (though none be dead therein) be shut up for Fourty days, and have a Red Cross, and Lord have mercy upon us, in Capital Letters affixed on the door, and Warders appointed, as well to find them necessaries, as to keep them from conversing with the sound.

12. That at the opening of each Infected House (after the expiration of the said Fourty days) a White Cross be affixed on the said door, there to remain Twenty days more; during which time or at least before any Stranger be suffered to lodge therein, That the said

house

house be well Fumed, Washed and Whited all over within with Lime; And that no Clothes, or Houshold-stuff be removed out of the said house, into any other house, for at least Three months after, unless the Persons so Infected have occasion to change their habitation.

13. That none dying of the Plague, be buried in Churches, or Church-yards (unless they be large, and then to have a place assigned for that use (where other bodies are not usually buried) Boarded or Paled in Ten foot high) but in some other convenient places, and that a good quantity of unslackt Lime be put into the Graves with such bodies, and that such Graves be not after opened within the space of a year or more, lest they infect others.

14. That in case any City, Burrough, Town or Village be so Visited and Infected, that it is not able to maintain its own Poor, That then a Rate be forthwith made by the adjoyning Justices of the Peace, and confirmed at the very next Quarter-Sessions, for that use, upon the neighbouring Parishes, according to the Statute 1 Jacobi, so

that

that such Visited Poor may have sufficient Relief; want and nastiness being great occasions of the Infection.

15. That you your selves use your utmost endeavours not only to see these Directions punctually observed, and be in a readiness to render an Accompt as often as you shall be required, but that you strictly enjoyn all High Constables, Petty-Constables, Headburroughs and other Officers, to execute their respective Duties according to their places; and if any shall fail herein, to use the utmost severity against them according to Law.

What relates to Physicians, Chyrurgeons, and such other persons as are necessary for the prevention and help of such who shall be Infected, the same is left to your particular care and discretion.

Lastly, That you take special care, that not only the Monthly Fasts, but that the publick Prayers on Wednesdays and Fridays also, be strictly and constantly observed according to His

Majestie's

Majeſtie's Proclamation; And that ſuch Collections as ſhall be then made, be ſtrictly applyed to the relief and neceſſities of the poor in Infected places, by which means God may be inclined to remove his ſevere hand both from amongſt you and us.

POST-SCRIPT.

IT is the cuſtom in ſome Countries when the chief Conſtables be called in the Seſſions upon their appearance to give them this Oath.

You ſhall true Preſentment make to the Grand Inqueſt of all offences and miſdemeanours committed or done within your Hundred, and are in any wiſe come to your knowledge, and belong to you now to preſent without concealment, ſo help you God.

Upon every Jury there ought to be the number of twelve or more, with an odd man, and after they be ſworn, the Clerk of the Peace, ought to give a note of their names to the Sheriff, that he may make a pannel thereof in parchment.

If any Delinquent appear upon a Recog-

cognizance, then the Clerk of the Peace ſhall enter a *comparuit*, and this done he ſhall call the proſecutor thus,

D. E. *come forth, and proſecute the Peace againſt* A. B. *or elſe he ſhall be diſcharged.*

And if the proſecutor appear not after he has been called thrice after this manner, then the Delinquent ought to be diſcharged of courſe; but if the proſecutor doth appear, then the Delinquent is continued or diſcharged, as the Court ſhall ſee cauſe.

When any proſecutor doth demand the Peace againſt any Delinquent in open Seſſions, the Clerk of the Peace ſhall adminiſter unto the proſecutor this Oath.

The Peace which you require againſt A. *is not out of any ill will, or malice which you bear to him, but that you ſtand in fear of your Life or ſome other bodily hurt to be done by him unto you, or by ſome other perſon by his procurement, ſo help you God.*

THE

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ERRATA.

The last words, page 49. God save the King, ought to be placed page 50. Line 2. after the Commission. p. 55. l. 21. read for Envy, Hatred, p. 75. l. 11. r. after effect, and not to depart without Licence of the Court. p. 81. l. 6. r. after Questions touching the matter in variance. p. 84. l. 22. r. And if they say. p. 85. l. 21. r. it thus, *A. B.* of *C.* Yeoman. come forth, save thee and thy Bail or, p. 90. l. 4. Sureties ought to be added as in a Recognizance for Ale-houses, p. 91. l. 17. r. Statutes, p. 104. l. 23. r. shall willingly hear Mass, p. 117. l. 18. r. he shall forfeit. p. 122. l. 3. r. upon the Indictment, p. 128. l. 9. r. tunc.

FINIS.